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IN THE CRIMINAL COURT FOR SUMNER COUNTY, TENNESSEE  
AT GALLATIN

STATE OF TENNESSEE	)	
	)	
	)	NO / CR875-2017
vs.	)	CR133-2020
	)	CR548-2017
	)	
ANDY LAMAR ALLMAN	)	

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TRANSCRIPT OF PROCEEDINGS  
April 2, 2020  
VOLUME I OF II

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THE HONORABLE DEE DAVID GAY PRESIDING

LORI C. BICE, LCR  
Criminal Justice Center  
117 W. Smith Street  
Gallatin, Tennessee 37066  
(615) 414-8993

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I N D E X

PAGE

WITNESSES

RUSSELL WILLIS

Direct Examination by General Dean	32
Cross-Examination by Mr. Copas	58
Redirect Examination by General Dean	85
Recross-Examination by Mr. Copas	86

NANCY CORLEY

Direct Examination by Mr. Copas	94
Cross-Examination by General Dean	98

JIM EDWARDS

Direct Examination by Mr. Copas	104
Cross-Examination by General Dean	107

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

PAGE

WITNESSES

MARIO HERRERA (via telephone)

Direct Examination by General Dean 118

Cross-Examination by Mr. Copas 129

Redirect Examination by General Dean 149

Recross-Examination by Mr. Copas 151

MARK SMITH (via telephone)

Direct Examination by General Dean 159

Cross-Examination by Mr. Copas 161

RIELLY GRAY

Direct Examination by General Dean 167

Cross-Examination by Mr. Copas 189

RULING

230

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Page</u>
1	Transcript	26
2	Order of Enforcement	36
3	Amended Order of Enforcement	86
4	Affidavit	93
5	Letters	93
6	Chancery Court transaction list	164
7	Agreed Final Order from Chancery Court	165
8	CPA report	167
9	Money Flow Chart from estate of Brenda Sue Ingram	175
10	Money Flow Chart from estate of Jane Ellen Denney	175
11	Copy of check/deposit	189
12	Copy of text messages	205
13	Dismissal order	207
14	Secretary of State information on Human Resource/Labor Consultants, LLC	207

1 P R O C E E D I N G S

2 (The following proceedings came on to  
3 be heard on Thursday, April 2, 2020, beginning at  
4 approximately 1:50 p.m., before the Honorable Dee  
5 David Gay, Judge, to wit:)

6 THE COURT: Let's take the cuffs off.

7 GENERAL DEAN: Judge, as far as I know  
8 we will not need -- this is not a plea. So we will  
9 not need probation or community corrections or  
10 anyone.

11 THE COURT: You may be excused.

12 GENERAL DEAN: Theoretically, after  
13 the bond hearing we might need one of them, but I  
14 assume they could come back.

15 THE COURT: Yeah. Everybody can be  
16 excused in probation or community corrections. If  
17 we ultimately need you, we'll send for you. We've  
18 got to watch our numbers in court here.

19 Okay. Before we get started here, I  
20 want to make a couple of preliminary observations to  
21 kind of get us set on the right track. In looking  
22 over and reviewing these cases, we had the first  
23 charges come out of the August grand jury in 2017.  
24 Other charges followed in December of 2017. That's  
25 a long time ago for criminal court in Sumner County.

1 We've had -- we just set our fourth trial date. The  
2 first trial date was November 5th, 2018. The second  
3 trial date was February 19, 2019. At that time  
4 Mr. Little made a motion to withdraw. The motion  
5 was granted. Mr. Copas was employed and we set a  
6 third trial date, and right before the third trial  
7 date we had new charges.

8 Mr. Copas, last Friday I arraigned  
9 your client on new charges in Case No. 133-2020. I  
10 assume that you're representing him and that case  
11 has been set today separately to tag along with the  
12 other two cases.

13 So first of all, I want to leave the  
14 impression with you that this case is old, and we  
15 need to get moving. And I understand some present  
16 difficulties but, gee whiz, we've got to move on  
17 this case.

18 Now, let me tell you why we're here  
19 today. We have on the docket a motion to revoke the  
20 bond and a motion to reduce the bond.

21 And, Mr. Copas, I completely agree  
22 with you on what you said about the motion to revoke  
23 the bond under the Supreme Court order and other  
24 matters, but you remember that I asked if you were  
25 going to file a motion to reduce the bond which you

1 have.

2 Now, I don't want to have two separate  
3 hearings, a motion to revoke the bond and a motion  
4 to reduce the bond. It doesn't seem to be  
5 effectively using the Court's time. So the only  
6 reason we're hearing a motion to revoke is because  
7 we've got a motion to reduce the bond. And if we  
8 did not have the motion to reduce -- revoke the  
9 bond, all we would be hearing is the motion to  
10 reduce the bond. Do you still want to continue  
11 this?

12 MR. COPAS: That is correct, Your  
13 Honor. I did meet with my client and got a waiver  
14 of appearance on the arraignment and signed --

15 THE COURT: That's fine. That's fine.

16 MR. COPAS: But the motion I filed to  
17 reduce the bond was in the recent case just filed,  
18 the 2020 case.

19 THE COURT: Right. I understand.

20 MR. COPAS: The reason I've got that  
21 there, Your Honor, is that there's so many issues  
22 raised and I'm very, very much disturbed by the fact  
23 that I don't have access to the client file in this  
24 case. The case that has been brought here just  
25 recently, I don't have access to any records at all

1 of his on that, and there should be in those records  
2 some admissions there that I could use to impeach  
3 this witness, Mr. Mario --

4 THE COURT: Okay. So "admissions,"  
5 are you meaning credibility issues of the victim?

6 MR. COPAS: Credibility, Your Honor,  
7 and I think there's enough here -- enough issues  
8 here to be presented to this case today that no  
9 matter if I get an adverse outcome, I have -- I feel  
10 like I have a right to file a motion to the Court of  
11 Appeals on the -- this bond issue, this revocation,  
12 and in the event I get some relief with the Court of  
13 Appeals, which I have in past got relief, I would at  
14 least like to have a bond that I can come back and  
15 address to get him off of this 2.5 --

16 THE COURT: Okay. Well, what we've  
17 got now, we've got a 2.5 million dollar bond. Do  
18 you want to continue this case? Because I'm not  
19 going to take up two separate bond motions. There's  
20 no need to, because the issues that you raise in a  
21 motion to reduce the bond, 40-11-118, the Supreme  
22 Court in Burgins wants me to consider those as well.  
23 So what are you asking me to do?

24 And I -- you know, you talk about  
25 appealing the case before I've even ruled. I mean,



1 that's kind of intimidating -- or trying to be  
2 intimidating to the Court. I mean, I know that's --  
3 I know that's a possibility every time I sit on this  
4 bench.

5 MR. COPAS: Your Honor --

6 THE COURT: Hold on just a second.  
7 Let me read you Burgins.

8 MR. COPAS: I've appealed things for  
9 dear, dear friends and companions --

10 THE COURT: No. That doesn't bother  
11 me that you appeal, but, I mean, we haven't even  
12 started the case yet. We haven't even decided what  
13 we're going to do today, but you had said in your  
14 memo -- or your motion about not being ready and due  
15 process.

16 Let me direct you to what Burgins says  
17 on -- in page -- it's 464 S.W.3d 310, and the Court  
18 -- it says the Court must conduct an evidentiary  
19 hearing in which the State is required to prove by a  
20 preponderance of the evidence those factors that are  
21 set out in 40-11-141(b). Preponderance of the  
22 evidence, and there's about three separate grounds  
23 there that we won't go over.

24 I think, one, we have a situation and  
25 note that it's not a conviction that's alleged.

1 It's a charge while somebody is out on bond. And, I  
2 mean, it's a no-brainer. He's been charged, he's in  
3 this court, and you represent him.

4 A second factor that I'm concerned  
5 about is the fact that we've got a situation here  
6 where we've set this for trial four times now.  
7 After the second trial was set we had to reset the  
8 trial because the attorney-client situation was  
9 toxic. Now we had to reset that trial because of  
10 the new charges against your client. So there's an  
11 argument about the obstruction of the orderly and  
12 expeditious progress of the trial in the  
13 proceedings.

14 So we've got two possible grounds  
15 there by a preponderance of evidence, and the  
16 Burgins court says regarding the evidence, Moreover,  
17 requirements for the revocation proceedings shall be  
18 somewhat flexible in that the trial court shall be  
19 able to consider factual testimony and documentary  
20 proof supporting the grounds for revocation of  
21 pretrial bail. In addition to documentary proof,  
22 the state must present testimony from a  
23 corroborating witness or witnesses as to the facts  
24 supporting allegations contained in documents.  
25 Hearsay evidence may be admitted when the trial

1 court finds that it is reliable.

2 So we'll have a hearing and follow  
3 these rules here. I just kind of need to know what  
4 you want to do.

5 MR. COPAS: Well, Your Honor, we've  
6 got the trial set in August is my understanding.

7 THE COURT: Yes, sir, we do. It's the  
8 fourth trial date.

9 MR. COPAS: And what I'm here today on  
10 is not impairing that at all. In fact, it's -- let  
11 me say this, Your Honor. The last thing I filed --  
12 I don't know if the Court's got it, but I -- after  
13 looking at the Supreme Court order I thought, well,  
14 I ought to at least file something to give the  
15 Court, you know, at least ask the Court to exercise  
16 its discretion sua sponte, if you will, and address  
17 the matters I brought up on the \$2.5 million bond --  
18 bail bond that was set.

19 And what I laid out in that motion was  
20 some compromise, middle ground, where we could  
21 satisfy the Court's interest and the State's  
22 interest and that would be by house arrest under the  
23 strictest restrictions that the State would like to  
24 impose in that regard. And what that does, Your  
25 Honor, is it does at least -- it enables me to make

1 sure I'm ready come August. If I have to deal with  
2 what I'm dealing with now --

3 And the other thing, Your Honor, is,  
4 gee, I mean, I -- when I walked in there my last  
5 visit, they said they brought in an inmate that had  
6 a fever. It -- I just want to make sure I take all  
7 steps I can that we don't end up with some virus  
8 situation in jail that, you know, my client is one  
9 of the recipients of it and --

10 THE COURT: Well, let me assure you  
11 that the courts here are doing all that we can to  
12 reduce the population in the jail during this  
13 pandemic. And I look at each case individually.  
14 Sometimes we set lower bonds. Sometimes we set ROR.  
15 I just reduced a bond on a probation violation to  
16 ROR. We are looking to release people serving  
17 sentences early. We are looking to release people  
18 that have serious physical health issues. We're  
19 always looking for ways to release and take each  
20 case on an individual basis.

21 And I'll be glad to consider what you  
22 want to do, but I can't -- I'm not going to do  
23 anything without hearing evidence so that I can be  
24 fully informed about what's going on here and a  
25 basis for setting the bond or revoking a bond. I'm

1 not going to do anything without a hearing. I think  
2 I would be irresponsible because there are a lot of  
3 allegations here, Mr. Copas, and you're going to  
4 have to understand this is not the ordinary theft of  
5 property case where I would consider house arrest,  
6 but if you want me to do that, we're going to have  
7 some kind of a hearing. I'm not serving the people  
8 of Sumner County without doing that.

9 MR. COPAS: Well, Your Honor, having  
10 heard that, my understanding of the Burgins case is  
11 that what the -- what that case does is under proper  
12 procedure it opens the door for the Court to  
13 exercise its discretion any way it sees fit.

14 THE COURT: It does.

15 MR. COPAS: It does. And you can --

16 THE COURT: It does. I mean, I can  
17 choose -- I --

18 MR. COPAS: I mean, you can do  
19 anything you want.

20 THE COURT: I can do anything I want  
21 to do all the way up to revoking the bond, but  
22 again -- you are absolutely correct in the law about  
23 that. I mean, I've got -- we've got Mr. Allman in  
24 jail now and his constitutional right to bail needs  
25 to be enforced and the logical way to do that is to

1 hear a motion to reduce the bond, and I do that. I  
2 was doing that earlier today, and we've reset that  
3 case.

4 But that's what the Supreme Court  
5 speaks to when we're talking about jail cases and  
6 constitutional rights. Now, that's where we are.

7 MR. COPAS: Okay. Your Honor, I --  
8 you know, looking through the lens of practicality,  
9 if you will, if the bond is reduced from 2.5  
10 million, it may be reduced to an amount to where it  
11 would effectively -- would not work out anyway, and  
12 if the Court would entertain us coming back on house  
13 arrest --

14 THE COURT: I mean, we can do it now.

15 MR. COPAS: Well, I've -- Your Honor,  
16 I mean, that's -- I'm ready for that. I mean, when  
17 you say now, I'm ready to do it today if we could do  
18 that after the hearing.

19 THE COURT: Okay. So you want to have  
20 a hearing and order that I can consider house  
21 arrest. That's the only issue that you want to take  
22 up?

23 MR. COPAS: Well, of course, I --

24 THE COURT: I'm going to hear  
25 testimony from everybody and whether or not we have

1 a motion to revoke in the future or whatever, we're  
2 going to have that testimony because evidently we've  
3 got witnesses here ready to go. Again, this is a  
4 matter that has a lot of parts and I don't know a  
5 lot about a lot of the parts, and I'm not going to  
6 make any decision until I am satisfied that I know  
7 all the factors in setting a bond or revoking a  
8 bond. So I'll do whatever you want to do.

9 MR. COPAS: Your Honor, let me confer  
10 with my client just a --

11 THE COURT: Sure.

12 Generals, I haven't forgotten about  
13 you over there. I haven't forgotten about you over  
14 there.

15 GENERAL DEAN: We're fine. I'm just  
16 trying to make sure I've got appropriate separation  
17 between myself and co-counsel.

18 THE COURT: I understand.

19 GENERAL DEAN: She has a measuring  
20 tape with her, Judge.

21 GENERAL WALKER: It's not related to  
22 the --

23 GENERAL DEAN: She got it out of her  
24 purse and showed me. So she's very serious about  
25 this distance thing.

1 MR. COPAS: Your Honor, he wants -- my  
2 client would like to hear everything and for the  
3 Court to entertain the house arrest at --

4 THE COURT: Okay. So we're going to  
5 hear all the evidence. And the only request that  
6 you're making is house arrest?

7 MR. COPAS: Well, of course, I'll be  
8 -- I mean, I take it Mr. Herrera is going to be --

9 THE COURT: I don't know.

10 GENERAL DEAN: Judge, I have three  
11 anticipated witnesses. One is Russ Willis from the  
12 Board of Professional Responsibility. He is here in  
13 person. The second is Mr. Herrera, but Mr. Herrera  
14 is in Florida, and the only way I can connect with  
15 him is by telephone conference.

16 THE COURT: Okay.

17 GENERAL DEAN: That's his  
18 availability, which we believe falls within the  
19 mandate of the COVID-19 --

20 THE COURT: It does. It does.

21 GENERAL DEAN: -- extraordinary order.

22 Thirdly, we have TBI Agent Rielly  
23 Gray. Those are my three anticipated witnesses,  
24 Your Honor.

25 THE COURT: Okay. Now, what issue do



1     you want me to consider?

2                   MR. COPAS: I guess we should proceed  
3     with the reduction, Your Honor, and --

4                   THE COURT: Okay. We'll consider the  
5     motion to reduce bond. Is that what you want to do?

6                   MR. COPAS: I'm sorry. To revoke.

7                   THE COURT: Do you want to hear both?

8                   MR. COPAS: Right. Hear the proof on  
9     both.

10                  THE COURT: Okay.

11                  MR. COPAS: And, Your Honor, frankly,  
12     what I want to do is -- I guess Your Honor has done  
13     spoke to that, is I want to get all the proof in the  
14     record I can.

15                  THE COURT: I understand.

16                  MR. COPAS: And then --

17                  THE COURT: That's what I'm after  
18     because I don't know what we're dealing with here.

19                  MR. COPAS: And, of course, there are  
20     two collateral motions I've got to order --  
21     everything they took out of the residence --

22                  THE COURT: Yeah, and what I'm going  
23     to do -- you know, the Supreme Court order speaks to  
24     constitutional rights, but while we're here and  
25     we've got such a massive amount of things that you

1 need, I thought we'd go ahead and take that up too  
2 while we're here so we don't have to set another  
3 court date.

4 MR. COPAS: Well, let me -- also, one  
5 announcement on the one about the TBI that I made,  
6 the State has given me the assurance on the motion  
7 and order they just presented that I will get access  
8 to everything that was taken out of that house on  
9 that search warrant and that -- what the State is  
10 saying is if the TBI is retaining anything  
11 whatsoever, then I will have access to that also  
12 under their order that they produced.

13 GENERAL DEAN: Judge, I submitted a  
14 motion and an order to Jennifer just earlier today  
15 and I think she might have brought it in there.

16 THE COURT: She did. Hold on just a  
17 second.

18 GENERAL DEAN: And that was my attempt  
19 based on some past experience the TBI has had and  
20 ways they've dealt with issues of privileged  
21 information being perhaps seized by a governmental  
22 agency and how to basically put together what I call  
23 a clean team, and it is a group of agents, including  
24 at least one attorney, who look at everything that  
25 was seized and they only provide to the case agent

1 and the district attorney's office things that are  
2 relevant and not privileged. So anything that's  
3 privileged they would screen from us.

4 Then the order provides, depending on  
5 the type of material, what will happen to it. The  
6 electronics would be mirrored and then the originals  
7 would be returned to the defendant and counsel.  
8 Documents would be copied. The copies would be  
9 given to attorney and -- excuse me, opposing  
10 counsel. And then there are apparently some tape  
11 recordings, cassette tapes. Those would be  
12 transferred into a digital format and then digital  
13 copies given to opposing counsel.

14 THE COURT: So basically what you're  
15 telling me is everything that's not privileged will  
16 be turned over to the defense.

17 GENERAL DEAN: Everything will be  
18 turned over to the defense.

19 THE COURT: Oh, I mean -- okay.  
20 Everything is turned over to the defense. The  
21 privileged material is not turned in to you.

22 GENERAL DEAN: And I've gone a little  
23 further than the standard, Judge, because Mr. Copas  
24 gave me a heads-up that he had had conversations  
25 with Mr. Allman who may be getting stuff together to

1 give to Mr. Copas. So what I put in that order was  
2 language not only to shield communications between  
3 attorney and counsel, but if they see anything that  
4 Mr. Allman has put together that appears to be  
5 prepared for --

6 THE COURT: Gotcha.

7 GENERAL DEAN: -- litigation, that he  
8 might have been going to send to opposing counsel,  
9 there's no reason for us to -- the case agent and --

10 THE COURT: Sure. And I think  
11 Mr. Copas mentioned that last time, that Mr. Allman  
12 was in the process of preparing --

13 GENERAL DEAN: Yes, sir.

14 THE COURT: -- maybe memos about  
15 witnesses or so forth, and of course that will not  
16 be given to the State.

17 And, also, I assume everything is  
18 everything, and they will not come up with missing  
19 anything that they've got on the search warrants;  
20 is that correct?

21 GENERAL DEAN: Opposing counsel should  
22 get everything.

23 THE COURT: Okay. And that takes care  
24 of Brady, Giglio, and everything. If they've got  
25 everything, that takes care of the due process.

1                   Now, all I've got, General, is a  
2 motion.

3                   GENERAL DEAN: Oh, I'm sorry, Judge.

4                   THE COURT: Do you agree with this  
5 order?

6                   MR. COPAS: Yes, Your Honor.

7                   THE COURT: Okay. I think it's great.  
8 That just --

9                   MR. COPAS: I mean, I --

10                  THE COURT: Yeah, I mean, it gives you  
11 everything.

12                  MR. COPAS: If there's any holes in  
13 it, we can always come back and --

14                  THE COURT: Yeah, if there are any  
15 holes in that, we can always come back.

16                  GENERAL DEAN: And, Judge, there is a  
17 safety net in there. If they -- may I approach,  
18 Your Honor?

19                  THE COURT: Yes, sir.

20                  GENERAL DEAN: If they -- did I send  
21 you the motion and the order?

22                  MR. COPAS: Uh-huh.

23                  GENERAL DEAN: I thought I had.

24                  MR. COPAS: Well, let me say this.  
25 When I took it off my computer, I said I don't see

1 the order, but when I looked at it, the order was  
2 right behind --

3 GENERAL DEAN: Yeah, I did it as one  
4 document.

5 THE COURT: Okay. I'll go ahead and  
6 sign the order. It sounds great.

7 GENERAL DEAN: Judge, it also has a  
8 safety net. If they run into something they don't  
9 know what to do with, then they can bring it to you  
10 for in camera review --

11 THE COURT: Okay.

12 GENERAL DEAN: -- to give them  
13 direction on any particular --

14 THE COURT: Very good.

15 GENERAL DEAN: -- aspect of it. And  
16 we can get them -- TBI has approved this. So as  
17 soon as Your Honor signs it and I can get it to  
18 them, they can start going through this stuff, and  
19 as soon as they're through with any part, we can  
20 start --

21 THE COURT: Very good.

22 MR. COPAS: Your Honor --

23 THE COURT: Give it to Jennifer and  
24 she can stamp it and then you can send it out.

25 MR. COPAS: -- I guess in continuing

1 with this -- I guess I may be waiving my continuance  
2 motion, but I am not waiving any issues I raised in  
3 that motion --

4 THE COURT: Sure. I understand. I  
5 understand. I understand.

6 Okay. We are here now to hear the  
7 Burgins motion, and let me kind of read into the  
8 record what we're doing. Burgins deals with  
9 40-11-141, release prior to trial. And section (b)  
10 states, If the defendant is released upon personal  
11 recognizance and unsecured personal appearance bond  
12 or any other bond approved by the court and the  
13 defendant violates a condition of release, is  
14 charged with an offense committed during the  
15 defendant's release, or engages in conduct which  
16 results in the obstruction of the orderly and  
17 expeditious progress of the trial or other  
18 proceedings, then the court may revoke and terminate  
19 the defendant's bond and order the defendant held  
20 without bail.

21 Now, in Burgins, State vs. Burgins,  
22 464 S.W.3d 298, our Supreme Court upheld the  
23 constitutionality of that statute and imposed some  
24 due process requirements, some of which I have  
25 mentioned, and if the State proves by a

1 preponderance one of those grounds in the statute,  
2 then the court has the authority either to revoke  
3 the bond or increase the bond amount, and -- I agree  
4 with Mr. Copas -- in some instances decrease the  
5 bond. And there's a motion to reduce the bond here  
6 that I will hear today, including house arrest for  
7 the defendant.

8                   Burgins requires that I look at  
9 40-11-118 in making that ultimate decision if I find  
10 by a preponderance of the evidence that one of the  
11 conditions has been violated. And also in reducing  
12 a bond 40-11-118 is extremely relevant and comes  
13 into play. So that will be the process that we  
14 follow and what we're doing.

15                   General, would you like to make -- or  
16 I'll go first with you, Mr. Copas, and give you two  
17 opportunities to make an argument on every case. Do  
18 you have any opening statement you'd like to make?

19                   MR. COPAS: Your Honor, I have filed  
20 with the Court a transcript of the proceedings in  
21 chancery court --

22                   THE COURT: I've read that.

23                   MR. COPAS: -- where the receiver was  
24 appointed.

25                   THE COURT: I've read that.



1 MR. COPAS: And I -- the Court having  
2 announced that he's read -- the Court's read that,  
3 then it will be part of the consideration when we  
4 hear the proof and --

5 THE COURT: Sure. Let me do this.

6 MR. COPAS: And, Your Honor, I --

7 THE COURT: Go ahead.

8 MR. COPAS: I guess, Your Honor, if I  
9 may, in the process of doing that -- and I did make  
10 copies of any relevant pages of that for the State  
11 to see when I go through it, but it raises some --  
12 what I consider defenses, if you will, that's  
13 relevant to this charge that's been brought about  
14 this money. And it appears to me in everything that  
15 I -- to date everything I've been able to get ahold  
16 of -- of course, I have not seen the file. I have  
17 not seen any documentation otherwise -- that we have  
18 a fee dispute here on this money and this money was  
19 -- that there was a sizeable -- it's a divorce case.

20 The order that the State's presenting  
21 here is a post-divorce situation that came up  
22 afterwards, but we've got a lot of activity in that  
23 case that is not going to be before the Court today  
24 to show how much of a lien that the attorney had  
25 having not received any money whatsoever from this

1 client. And so that's going to be my approach on  
2 it, Your Honor, is to try to undermine the fact that  
3 this is fee money to some extent and --

4 THE COURT: Okay. See, there's so  
5 many moving parts here it's hard for me to kind of  
6 comprehend everything, but let me go ahead.

7 General, have you seen a transcript of  
8 the receivership proceedings?

9 GENERAL DEAN: Yes. Mr. Copas  
10 provided that yesterday or the day before.

11 THE COURT: Mr. Copas, I'll make that  
12 Exhibit Number 1 for you.

13 MR. COPAS: Thank you, Your Honor.

14 THE COURT: All right.

15 (Exhibit 1 received into evidence.)

16 THE COURT: Okay. General, opening  
17 statement?

18 GENERAL DEAN: Your Honor has already  
19 mentioned 40-11-118, the bond factors. You  
20 mentioned 40-11-141. I'm not sure if the Court  
21 mentioned 40-11-148.

22 THE COURT: I don't think I did,  
23 General.

24 GENERAL DEAN: That is the statute  
25 that says that when someone commits a crime while on

1 bail for another crime, it specifies that the amount  
2 of bond must be particularly high. It specifies an  
3 amount not less than twice that customarily set. It  
4 doesn't say twice. It says not less than twice. So  
5 I think there's a statutory recognition of the  
6 problem of someone committing a crime while on bail.

7 Now, I want to be clear that what he  
8 has been charged with recently is a theft, but the  
9 theft occurred many years ago. It was before he was  
10 arrested. The charge that is ongoing after he made  
11 bond on the first two cases we have would be the  
12 part about pretending to be an attorney.

13 Mr. Allman's incorrigibility as far as  
14 no one seems to be able to stop him from pretending  
15 to be an attorney -- the Supreme court, the Board of  
16 Professional Responsibility, being charged with  
17 felonies by this court, nothing seems to stop him,  
18 and that's one of the themes that the State is going  
19 to go back on. We think that factors in pretty  
20 strongly on his trustworthiness to appear in court,  
21 on the risk of danger to the community. He  
22 flagrantly ignores legal mandates and there's no  
23 indication that he will come to court if it doesn't  
24 suit him or that he will stop doing what he's been  
25 doing since he was suspended in September of 2016.

1                   One of the bond factors is reputation  
2                   and character. At this point Mr. Allman is infamous  
3                   among the community.

4                   His financial condition, his law  
5                   practice, as Your Honor was just discussing with  
6                   opposing counsel, had to go into receivership. His  
7                   license was suspended and then he was disbarred.  
8                   His employment status at this point, therefore, has  
9                   to be concerning to the Court. It certainly is to  
10                  the State. And those are some of the factors that  
11                  we want to explore here.

12                  We have indictments -- the old two  
13                  indictments include two counts for holding himself  
14                  out as an attorney and taking retainer fees from  
15                  people. Then we've got Mr. Herrera which involves  
16                  him continuing to act like he's going to help  
17                  Mr. Herrera in a legal capacity and continuing to  
18                  lie to Mr. Herrera about Mr. Herrera's \$59,000 that  
19                  Mr. Allman stole years before which he now has  
20                  decided is a fee. Interesting that he didn't tell  
21                  Mr. Herrera that. He told Mr. Herrera the money was  
22                  in escrow. Oh, your money is safe; it's in escrow;  
23                  the receiver has it. Oh, but now it's a fee.  
24                  Mr. Allman will say whatever he wants to say to try  
25                  to dance around the fact that he has stolen,

1 according to the disbarment orders, more than a  
2 million dollars from people within the Middle  
3 Tennessee area.

4 We believe that Mr. Allman's actions,  
5 including those while on bond and including in  
6 particular those after the Board and the Supreme  
7 Court order ordered him to stop practicing law,  
8 shows that he is not to be trusted to obey any  
9 lawful authority including this Court. We can't  
10 believe he'll come to court if it doesn't suit him,  
11 and we can't believe that he is going to stop  
12 preying on the public as a -- holding himself out to  
13 be an attorney and continuing to take money from  
14 people and hide the various thefts that he's already  
15 committed as he did with Mr. Herrera.

16 THE COURT: Thank you, General.

17 MR. COPAS: Your Honor, on the ...

18 COURT REPORTER: Will you go to the  
19 microphone, please?

20 THE COURT: Go over to the microphone.

21 MR. COPAS: I'm sorry.

22 On the issue of whether -- the  
23 conditions of the bond will be or house arrest or  
24 whatever, Your Honor, I do have witnesses in that  
25 regard, just people in the community, if you will,

1 to respond to what's been said about --

2 THE COURT: Are they here?

3 MR. COPAS: Yes, Your Honor.

4 THE COURT: Okay. Good.

5 MR. COPAS: And the family, which I --  
6 they've all given me letters which I'm just going to  
7 present to the Court and --

8 THE COURT: Yeah, they're admissible.

9 MR. COPAS: -- and that's -- all  
10 family people like to be heard if you know what I  
11 mean, Your Honor.

12 THE COURT: I understand.

13 MR. COPAS: And the -- what's really  
14 disturbing to me is that the State is going to come  
15 in here and say there's no proof of any kind of  
16 attorney fee when the records that they've been  
17 holding will show -- have that proof, and that's  
18 very disturbing to me, Your Honor.

19 THE COURT: Now, are you referring to  
20 all the counts or just the count on the new case?

21 MR. COPAS: On the new case.

22 THE COURT: Okay. Okay.

23 MR. COPAS: Just on that. And anyway  
24 I just want -- I'm not waiving that objection --

25 THE COURT: I understand.

1 MR. COPAS: -- but I'm very disturbed  
2 by it. Thank you.

3 And the other thing, Your Honor, there  
4 is a document in rebuttal, when we get to that point  
5 on our side of the proof, that's in the possession  
6 of my client, and I would like to be able to  
7 retrieve that after --

8 THE COURT: Sure.

9 MR. COPAS: -- we get this proof here.

10 THE COURT: Sure.

11 Okay. General, call your first  
12 witness.

13 GENERAL DEAN: Judge, the State calls  
14 Russ Willis.

15 It should be clear, Judge, while the  
16 witness approaches, the check Mr. Allman wrote to  
17 himself of Mr. Herrera's money does say Herrera fee,  
18 but my point was he didn't tell that to Mr. Herrera.  
19 So if I misstated that, I apologize.

20 THE COURT: Okay.

21 ///

22 ///

23 ///

24 ///

25 ///

1                   RUSSELL WILLIS,  
2   after having first been duly sworn, was examined and  
3   testified as follows:

4                   DIRECT EXAMINATION

5   BY GENERAL DEAN:

6   Q.           You know lawyers typically make very bad  
7   witnesses.

8   A.           I understand that.

9   Q.           Could you state your name, please?

10   A.          It's Russell Willis.

11   Q.           And where do you work, sir?

12   A.           I work for the Tennessee Board of  
13   Professional Responsibility.

14   Q.           And did you have any involvement in the --  
15   dealing with the complaints that came in about  
16   Mr. Allman over the years?

17   A.           Yes, sir. I've been the primary  
18   disciplinary counsel that's handled the disciplinary  
19   cases, the contempt case, the receivership case, and  
20   the temporary suspension case.

21   Q.           Of the complaints that you have worked  
22   through, about how many did you deal with?

23   A.           Are you talking about disciplinary  
24   complaints?

25   Q.           Yes.



1 A. Approximately 208 are contained within the  
2 three disciplinary cases that we've brought. There  
3 is a fourth disciplinary case that's pending that  
4 has an additional 14 that has not been resolved yet.

5 THE COURT: Okay. How many in the  
6 three cases, did you say?

7 THE WITNESS: Approximately 208.

8 THE COURT: Okay. And then how many  
9 is the fourth?

10 THE WITNESS: That has currently 14  
11 matters.

12 THE COURT: Okay. Thank you, sir.  
13 Go ahead.

14 BY GENERAL DEAN:

15 Q. Now, you mentioned the three disciplinary  
16 complaints that have been resolved. Why are there  
17 three? How does it happen that you come up with  
18 that many?

19 A. In this particular case we received a  
20 number of complaints early on. Those were handled  
21 by the investigative division of the Board. When  
22 they get through investigating those particular  
23 cases, then those cases are presented to the Board  
24 for whatever disposition the Board feels is  
25 appropriate. If they are deemed to be something

1 that should be a part of a formal disciplinary case,  
2 a more significant case, then they are filed as a  
3 formal disciplinary matter by the litigation  
4 department which is where I work.

5 So in Mr. Allman's case, we had a few cases  
6 coming in, looked at those. I believe the first  
7 initial group was about seven or eight. The Board  
8 recommended a petition be filed. We filed the  
9 initial petition based upon those seven cases. Then  
10 we received more cases, did more investigation. The  
11 Board wanted those part of a petition. We then  
12 filed a supplemental petition in that first case,  
13 then the second supplemental, and then a third  
14 supplemental.

15 Q. So it's basically just add complaints to  
16 the existing disciplinary complaint?

17 A. Correct. So the very first full  
18 disciplinary case I had had a total of 79 complaints  
19 in it, and that formal petition contained the  
20 initial petition, a first supplemental, a second  
21 supplemental, and a third supplemental case.

22 Q. So what makes you file a separate petition?

23 A. Cases get moving forward and they become  
24 ripe to try and then other matters come to our  
25 attention, and instead of holding up the initial

1 case, we simply file a second case. That's one  
2 criteria.

3 The other issue in this case was that when  
4 we got to a large number, it became very difficult  
5 to figure out how to try that matter. So instead of  
6 adding more to the 79 cases, we chose to file a  
7 separate petition. So that played a part in it too.

8 Q. And I guess the same process basically  
9 leads you at some point to cut off Petition Number 2  
10 and begin Petition Number 3?

11 A. Correct. And what happens in these cases,  
12 Judge, is as we -- as these matters become public,  
13 more clients -- more former clients consider that  
14 maybe they weren't treated how they should have been  
15 treated and they may make a complaint. Some of  
16 those are looked at and not brought forward. Some  
17 of them are looked at on their face and moved  
18 forward in the investigation and they ultimately  
19 become a part of a petition.

20 Q. Did you bring a copy of the disciplinary  
21 complaints in this case?

22 A. Yes, sir. I brought a certified copy of  
23 all of the petitions I have mentioned earlier, both  
24 disciplinary ones, the criminal contempt, and the  
25 temporary suspension.

1                   GENERAL DEAN: Judge, since these are  
2 certified -- I mean, I guess I could have the  
3 witness identify them.

4 BY GENERAL DEAN:

5 Q.           Would you look through those as well as the  
6 other two documents, sir?

7 A.           Yes, sir. I -- we have a petition with a  
8 docket number for the Board of 2016-2564. That is  
9 the first petition I filed. We have a Petition  
10 Number 2017-2765. That's the second petition that I  
11 filed. We have a third petition, 2018-2830. That  
12 is the third one. Then I have the order of  
13 temporary suspension which has a Board Docket Number  
14 of 2016-2628. And then we have the criminal  
15 contempt petition which has a Board Docket Number of  
16 2017-2748.

17                   GENERAL DEAN: Judge, I'd ask that  
18 these be made exhibits to this proceeding.

19                   THE COURT: Granted. We'll make this  
20 Collective Exhibit Number 2.

21                   (Exhibit 2 received into evidence.)

22 BY GENERAL DEAN:

23 Q.           So let's talk about the disciplinary  
24 petitions. What was the result of those petitions?  
25 What ultimately happened?

1 A. The second petition I filed, I believe, is  
2 the petition that I actually tried. The other two  
3 petitions were negotiated out with a conditional  
4 guilty plea signed by Mr. Allman. All three  
5 resulted in a disbarment in each of those cases and  
6 restitution ordered in all three cases.

7 Q. So there are --

8 THE COURT: When was that?

9 THE WITNESS: Well, I've got -- the  
10 orders are all dated and they have the dates in  
11 there. Are you looking for the order -- dates of  
12 the orders?

13 THE COURT: Yes.

14 THE WITNESS: All right.

15 THE COURT: When was he disbarred and  
16 ordered to make restitution?

17 THE WITNESS: All right. Under the  
18 first matter -- the first petition which was  
19 2017-2765, the order of enforcement, which is the  
20 Supreme Court order that effectively enters the  
21 disbarment, that was dated June 19, 2018.

22 THE COURT: Okay.

23 THE WITNESS: The second matter which  
24 was entered by the Supreme Court, the second  
25 disbarment, was in Board Case Number 2018-2830, and

1       that was entered on July 13, 2018.

2                   THE COURT:   How can somebody be  
3       disbarred two times?

4                   THE WITNESS:  I think it's much sort  
5       of like the criminal process system where if you  
6       have a complaint, we have to deal it; we have to  
7       resolve it in some manner.  And when someone comes  
8       in and tells us that they have a particular issue  
9       with a lawyer and it's a serious matter and it gets  
10      to a formal disciplinary petition, we have to  
11      resolve it in some way, and so that leads us to the  
12      entry of another sanction.

13                  THE COURT:   Gotcha.  Okay.  Thank you.

14      BY GENERAL DEAN:

15      Q.           So there were three disciplinary petitions  
16      that have been dealt with so far, and so --

17                  THE COURT:   He's talked about two.

18                  THE WITNESS:  Right.

19                  THE COURT:   What about the third one?

20                  GENERAL DEAN:  Okay.  I'm sorry.

21                  THE WITNESS:  The third case is the  
22      2016-2564 case, and that was an order entered by the  
23      Supreme Court disbarring Mr. Allman on July 30,  
24      2018.

25                  THE COURT:   Okay.  Sorry to butt in

1       here, General.

2                       So what does that mean? You've got  
3       three disbarments. What's the sanction here? I  
4       mean, he can't practice law for how long?

5                       THE WITNESS: Well, that's --  
6       certainly the sanction is he is no longer a member  
7       of the bar and cannot practice for a minimum of five  
8       years.

9                       THE COURT: Okay.

10                      THE WITNESS: At the end of that  
11       five-year period then he is -- if he wants to, he  
12       can file a petition for reinstatement, and it's his  
13       burden to prove that he has a requisite capacity to  
14       come back and practice.

15                      THE COURT: Okay. Go ahead, General.

16                      THE WITNESS: Let me also say the  
17       other benefit of these cases is we ask for  
18       restitution because it does play into the Tennessee  
19       Lawyers' Fund which is a separate department, and  
20       the Lawyers' Fund, before they can act on any claim  
21       filed by a former client or a client, they have to  
22       have filed a claim with us, with the Board, and the  
23       resolution of that is reported to the Lawyers' Fund.

24                      THE COURT: How much was restitution?

25                      THE WITNESS: We have restitution that

1 totals \$1,154,335.35.

2 THE COURT: Okay. Now, when was that  
3 ordered, at the first disbarment or the third?

4 THE WITNESS: Well, each disbarment  
5 carried its own --

6 THE COURT: Okay.

7 THE WITNESS: -- amount of restitution.

8 THE COURT: How much of that has been  
9 paid?

10 THE WITNESS: By Mr. Allman?

11 THE COURT: Yeah.

12 THE WITNESS: I am unaware of any  
13 amount that's been paid by Mr. Allman. I will tell  
14 this Court that the Lawyers' Fund has received a  
15 number of claims. They have acted on a number of  
16 those claims. I think they're paying out at  
17 approximately .32 or .35 cents on the dollar.

18 THE COURT: So you've got the Lawyers'  
19 Fund paying off his restitution?

20 THE WITNESS: Yes, sir.

21 THE COURT: Is that basically what --  
22 okay. And can you give me a guess about how much of  
23 that has been paid?

24 THE WITNESS: I'm going to be very  
25 general because I don't --



1 THE COURT: Sure. We understand.

2 THE WITNESS: Make sure I've got the  
3 right numbers. I believe there is a statutory or  
4 policy limit per lawyer. It's a total, I think, of  
5 \$250,0000.

6 THE COURT: Okay.

7 THE WITNESS: And then there's a per  
8 claim limit of \$100,000.

9 THE COURT: Okay.

10 THE WITNESS: Some of these claimants,  
11 their claims are more than 200 -- I mean more than  
12 \$100,000. The total amount that has been approved  
13 exceeds the \$250,000 limit. That's why they're  
14 paying out on a 34 or 35 percent payment. We still  
15 have more -- a few more claims that are going to  
16 have to be considered by the Board, the Lawyers'  
17 Fund.

18 THE COURT: Okay.

19 THE WITNESS: And that may affect --  
20 there is some residual that they're holding back so  
21 that they can pay the rest of it out when all the  
22 claims have been looked at.

23 THE COURT: Okay. General, sorry for  
24 butting in here.

25 But when did you start this

1 investigation on Mr. Allman? When was the first  
2 complaint filed? And it looks like it goes all the  
3 way up here to -- the last disbarment, I believe,  
4 was 7/30/18.

5 THE WITNESS: Yes, sir. I cannot tell  
6 you when the first complaint came in to the Board.  
7 That would be looked at by the investigative side.  
8 It would have been at least several months before  
9 the first petition was filed.

10 THE COURT: Okay. Go ahead, General.

11 BY GENERAL DEAN:

12 Q. And the first petition was March of '16, I  
13 think. Would that -- does that sound right?

14 A. Yeah, I can tell you. The first petition  
15 was March 2, 2016. So we would have gotten  
16 something back into the 2015 time frame.

17 THE COURT: Okay. Go ahead, General.

18 BY GENERAL DEAN:

19 Q. All right. Did we go through the results  
20 of these three petitions? I think you did say  
21 conditional guilty pleas to two of them.

22 A. Right. There were conditional guilty pleas  
23 to two of them. There was a hearing panel decision  
24 of disbarment in the third.

25 Q. The conditional guilty plea, what's that

1 conditioned on?

2 A. That is conditioned upon the approval of  
3 the hearing panel, the Board, and ultimately the  
4 Supreme Court, and effectively only the Supreme  
5 Court's decision is when the discipline is imposed.

6 Q. So that condition, has it been met? Have  
7 those guilty pleas been accepted all the way up the  
8 chain to the Supreme Court?

9 A. Yes, sir. Otherwise you wouldn't have the  
10 order from the Supreme Court.

11 Q. There's been some talk about the  
12 receivership of Mr. Allman's practice. Who filed  
13 for the receivership to get going?

14 A. The Board filed the initial petition to  
15 seek appointment of a receiver in Sumner County, and  
16 the rationale for that is that we were receiving a  
17 number of phone calls and complaints about not being  
18 able to reach Mr. Allman, not being able to get  
19 access to their files from the clients. And I had  
20 had some preliminary discussions with Mr. Allman and  
21 ultimately counsel that he retained about getting  
22 those matters -- getting the files handed over. The  
23 numbers became so much that apparently it just was  
24 overwhelming whoever was trying to help him  
25 accomplish what needed to be accomplished.

1           So we went ahead and filed for the  
2 receivership so that the clients could have someone  
3 they could actually call and talk to and who could  
4 take possession of whatever was in the office and  
5 start to timely get matters to the client.

6       Q.           Before the first order of disbarment hit,  
7 was there any attempt to suspended Mr. Allman's  
8 license?

9       A.           Well, yes, before the first disbarment  
10 there was as part of that first petition that I  
11 filed. That was on, I think, seven complaints. The  
12 next supplemental petition I filed in that case was  
13 the Rosa Ponce case which looked like it had -- it  
14 looked like it was a theft case of a settlement, and  
15 once I saw that, then I went ahead and brought the  
16 petition for temporary suspension under the 12.3 --  
17 Rule 9 Section 12.3 allows us to seek an immediate  
18 suspension of a lawyer for misappropriation or  
19 representing a substantial harm to the public. And  
20 with a theft case we needed to move forward because  
21 the disciplinary case I had was going to take many  
22 months, if not longer, to resolve.

23       Q.           And, in fact, that was borne out. I think  
24 they start in '16 and they -- the disbarments don't  
25 occur until '18. Does that sound right?

1 A. Correct. And really because the numbers of  
2 complaints that came in that became a part of the  
3 petition made it last longer, because every time I  
4 file a supplemental Mr. Allman would have 20 days to  
5 respond and answer, and then we'd start that  
6 discovery process for that section. And to get the  
7 case ready I had to have all the cases ready to go.

8 Q. How was Mr. Allman on responding to the  
9 complaints to the Board when he was given the  
10 opportunity to do so?

11 A. In the initial numbers we were getting some  
12 responses back from Mr. Allman with information,  
13 promises about getting documents to us that would  
14 satisfy us about the retainers and where they were,  
15 the work being done. That was -- part of the  
16 defense was, I'm talking to these clients; I'm doing  
17 what I need to do. It's all a misunderstanding, and  
18 the money is where it's supposed to be, and I've  
19 done the work and I've earned the fee.

20 And we would be asking, well, give us some  
21 proof of that, and his lawyers were working on that,  
22 promised it to us. We never received any of that,  
23 and then the numbers began to grow pretty quickly  
24 and it just became bigger.

25 And, of course, the Ponce case was really a

1 major focus of mine and that was in that -- that  
2 came up pretty quickly in the supplemental, and I  
3 wanted to see proof of the 24-and-change-thousand  
4 that was supposed to be in his trust account or in a  
5 check written to Ms. Ponce and delivered to her.  
6 And that promise was made over and over again, never  
7 saw that money. That's what led to the suspension  
8 order.

9 THE COURT: And when was his first  
10 suspension?

11 THE WITNESS: The temporary  
12 suspension, Your Honor, was -- let me find it --  
13 September 9 of 2016.

14 THE COURT: Okay.

15 THE WITNESS: And, of course, there is  
16 a mechanism under that rule that allows the lawyer  
17 to seek to dissolve that at any time and --

18 THE COURT: Dissolve the suspension?

19 THE WITNESS: Correct.

20 THE COURT: Okay.

21 THE WITNESS: There was discussions  
22 about that being forthcoming and that was also part  
23 of, well, please show me where the money is, and if  
24 you show me the money is in trust or has been  
25 delivered, then, of course, we would not stand -- we

1 would let the temporary suspension be dissolved, we  
2 wouldn't oppose that, and that never occurred.

3 THE COURT: Did the temporary  
4 suspension ever become a more permanent thing?

5 THE WITNESS: What happens in those is  
6 when we resolve the first petition for discipline,  
7 then that temporary suspension is dissolved in that  
8 order. So it is replaced with the disbarment.

9 THE COURT: So the temporary  
10 suspension was in effect from 9/9/16 until the first  
11 disbarment on 6/19/18?

12 THE WITNESS: I believe so, and I  
13 believe that the order should reflect -- I need to  
14 make sure if it reflects that it was dissolved.  
15 Yes, sir, on page 2 of that order, Paragraph Number  
16 3, the order of temporary suspension entered  
17 September 9, 2016 is hereby dissolved.

18 THE COURT: So can you tell me what a  
19 temporary suspension means?

20 THE WITNESS: It means that the lawyer  
21 must -- is no longer able to practice law --

22 THE COURT: Okay.

23 THE WITNESS: -- effective typically  
24 that day except for existing clients, and then that  
25 lawyer has 30 days that he can continue to represent

1     those existing clients, but he cannot take any new  
2     cases as of the day of the suspension.

3                     THE COURT:   Okay.

4                     THE WITNESS:  And it's designed there  
5     to allow the lawyer time to file their petition to  
6     dissolve the temporary suspension and get it set  
7     aside before a number of factors and then conditions  
8     kick in that the lawyer must follow.

9                     THE COURT:   Okay.  Go ahead, General.

10                    GENERAL DEAN:  Judge, can I see that  
11     bundle?

12                    THE COURT:   Yes.  Exhibit Number 2?

13                    GENERAL DEAN:  Yes, sir.

14                    THE COURT:   Yes, sir.  (Passes  
15     document.)

16                    GENERAL DEAN:  Thank you.  Thank you,  
17     Judge.  I wanted to make sure the order of  
18     suspension was amongst those and it is.

19                    THE COURT:   Okay.

20     BY GENERAL DEAN:

21     Q.             So when you're suspended from the practice  
22     of law, as far as new clients, soliciting business  
23     to perform legal services, can you do that?

24     A.             For Mr. Allman's purposes on September 9th  
25     when that order came down, he was to immediately --



1 could no longer take on new cases and he had a few  
2 days to a few weeks to do certain things, like he  
3 had ten days to send out letters to his current  
4 clients and tell them I've been temporarily  
5 suspended. He had 20 days in which he had to file  
6 motions with the court to withdraw on all of his  
7 pending cases, and then he had, I think, 30 days in  
8 which he could wrap things up.

9 Also, in that 20-day period he was supposed  
10 to then remove himself from his office after that  
11 20th day, and he could no longer be in his office,  
12 could no longer be where the practice of law is  
13 ongoing.

14 THE COURT: Well, let me just follow  
15 up there. What problems then did you have, if any,  
16 after suspension on 9/9/16 with him following the  
17 procedure that you've set forth?

18 THE WITNESS: I'll start out with what  
19 it looked like, because at the end of the day I have  
20 -- I'll have to back up a little bit.

21 THE COURT: Okay.

22 THE WITNESS: When we first got this  
23 we had -- he had a lot of clients, well over 200,  
24 and I was hearing maybe well over 300 clients, and  
25 his current counsel said he also had at least one or

1 two cases that he was trying that were pending and  
2 were ready to be tried in that 30-day period. So he  
3 was focused primarily on trying to get that one or  
4 two cases tried. I think they were in federal  
5 court.

6 And his position was, I really don't  
7 have enough time to sit down and write the letters  
8 to every client that I have at this moment. There's  
9 just so much to do to get ready for trial. So with  
10 his -- with our -- with my permission, we weren't  
11 really focussed on that 20-day period or 10-day  
12 period to get the letters out.

13 THE COURT: Okay.

14 THE WITNESS: Go ahead and get the  
15 practice -- go ahead and get your case tried. Get  
16 the letters out when you can, but let's do a good  
17 faith effort to get them out as soon as you get the  
18 cases wrapped up.

19 As part of his requirement under Rule  
20 9, he is supposed to then turn around and prove to  
21 us that he has withdrawn from cases, that he has  
22 written the letters. We never got that proof and  
23 did not get any of that proof until after I had  
24 filed the criminal contempt alleging that he had  
25 failed to meet the requirements of his temporary

1 suspension order. As part of that process and  
2 getting to the final end of the criminal contempt,  
3 his lawyer produced a number of the green cards  
4 showing that a number of letters had gone out.

5 Now, all this time we're getting phone  
6 calls from their clients -- from his clients. We've  
7 also spoke to some of the associates who were in his  
8 firm at the time when it was closing up, and every  
9 indication we had was that a number of his clients  
10 had not heard he'd been suspended, had not received  
11 any letter, and they only learned about it because  
12 it was on TV.

13 But, ultimately, I think he made a  
14 good faith effort to send out a number of those  
15 letters. I don't know that every client -- I'm sure  
16 every client didn't get them, and I don't know when  
17 they were sent, if they were just weeks after he got  
18 through trying the case or months after he got  
19 through trying the case.

20 THE COURT: Okay.

21 THE WITNESS: But part of that  
22 criminal contempt was withdrawn based upon the  
23 showing from his lawyers that he had sent out 60 or  
24 70, 80 certified letters and the green cards were in  
25 their possession.

1 THE COURT: Okay. What other  
2 suspension problems?

3 THE WITNESS: Well, it was discovered  
4 that he continued to engage in the unauthorized  
5 practice of law after he was temporarily suspended.  
6 We had several people who said they had phone calls  
7 with him, who said they had meetings set up with  
8 him. Ultimately, we had at least two or three of  
9 those people that we made a part of the criminal  
10 contempt. Two of those, one of which was  
11 Ms. Smelser --

12 MR. COPAS: Your Honor, I'm going to  
13 object to the hearsay.

14 THE COURT: I will overrule. Reliable  
15 hearsay is admissible under Burgins. Also under  
16 Rule 104 for motions of this type it's admissible.  
17 We don't want to have a jury trial before we have a  
18 jury trial. So I will overrule that objection.

19 Go ahead.

20 THE WITNESS: One of them was  
21 Ms. Smelser and one was Ms. Kelley. We made --  
22 those two, I know, are part of the criminal contempt  
23 for unauthorized practice of law. Mr. Allman took  
24 fees of \$4500 from each of them in November of 2016.  
25 These were new clients and he was unable to take any

1 new clients after September 9 of 2016.

2 THE COURT: General, are any of those  
3 -- either of those two clients listed in the  
4 indictment?

5 GENERAL DEAN: They are.

6 THE COURT: Okay. Go ahead.

7 THE WITNESS: That -- I never received  
8 the affidavit that he was supposed to file with us.  
9 That's not all that uncommon from lawyers, but  
10 they're supposed to file affidavits swearing that  
11 they have complied with the conditions of the  
12 temporary suspension, they've written the letters,  
13 they've withdrawn from all the cases, they have  
14 notified opposing counsel. I never received that  
15 affidavit, and I never received any of the filings  
16 that he had withdrawn from cases.

17 I do know in the federal court system  
18 that Judge Crenshaw, who was presiding judge, put  
19 down an order for all the cases that were pending in  
20 the federal court, which is somewhere around 35 or  
21 40, that just took him out of each of those cases.

22 THE COURT: So he had 30 to 35 cases  
23 in federal court, and Judge Crenshaw ordered him to  
24 withdraw on those cases or prohibited him from  
25 practicing law? What was the order?

1 THE WITNESS: I believe the order  
2 specifically said that he is removed from the case  
3 and the cases are continued for x number of days to  
4 allow the client to obtain new counsel or proceed  
5 pro se.

6 THE COURT: Okay. Go ahead, General.  
7 Well, before we get to that, what  
8 other suspension issues? You talked about contempt.  
9 Did you file a contempt?

10 THE WITNESS: Yes, sir, I did file a  
11 contempt petition against Mr. Allman. It had  
12 somewhere around -- ultimately about 25 particular  
13 charges against him. Most of those charges were due  
14 to his failure to notify clients about his  
15 suspension and to provide the documentary  
16 information showing he'd done that, and I had a  
17 number of clients who were going to come and testify  
18 to that. I had about 10 or 12 clients who were  
19 going to come and testify to that.

20 Ultimately when he showed me the green  
21 cards, we elected at that point to remove those from  
22 the petition. Ultimately we ended up settling the  
23 matter on two counts, both Ms. Smelser and  
24 Ms. Kelley. That's how we resolved it. So it went  
25 from 25 allegations to being resolved for a plea to

1 the two counts.

2 THE COURT: And what was the  
3 disposition?

4 THE WITNESS: He was found to be in  
5 criminal contempt. He pled nolo to both those  
6 matters. The Supreme -- well, the special master  
7 appointed by the Supreme Court found that he ought  
8 to serve 10 days for each offense, be fined \$50 for  
9 each offense, and to serve those 20 days  
10 consecutively. The Supreme Court reviewed that and  
11 agreed with it and entered the order.

12 THE COURT: When was that petition  
13 entered -- or the judgment entered on the contempt?

14 THE WITNESS: That would be the  
15 criminal contempt order which is -- was entered  
16 October 23, 2018. It's Board Number 2017-2748.

17 THE COURT: All right, General. Now,  
18 I think I'm done. You can get back to where you  
19 are. Go ahead.

20 BY GENERAL DEAN:

21 Q. In the process here has Mr. Allman -- in  
22 the process -- I'm sorry -- at the Board, the  
23 process that you were dealing with, has Mr. Allman  
24 consistently had one attorney and things gone  
25 smoothly in that regard, or has he -- or not?

1       A.           He started out, I believe, with Mr. Jay  
2       Longmire who contacted me to -- in regards to the  
3       first petition and, I think, even the supplemental  
4       petition with Ms. Ponce, and then Mr. Longmire  
5       withdrew and Mr. Will Hawkins took over. And I know  
6       Mr. Hawkins well, and he was working hard on trying  
7       to get me the information with Ms. Ponce and her  
8       \$24,000-and-some-change settlement money.  
9       Ultimately, as the cases grew, the clients -- the  
10      complaints grew and Mr. Hawkins withdrew.

11               I believe at that point Mr. Blackburn, Gary  
12      Blackburn, came on board and handled matters up  
13      through the first hearing that I had on the second  
14      petition I filed. Ultimately, though, Mr. Blackburn  
15      withdrew, and I believe then Mr. Alex Little and  
16      Mr. Dale Bay became counsel of record in the  
17      matters, and Mr. Little handled the criminal  
18      contempt. Mr. Bay was working on all the  
19      disciplinary cases that we had, which was all three  
20      petitions at that point in time were pending, and  
21      then I believe Mr. Little withdrew at the end of  
22      criminal contempt matter, Mr. Bay withdrew, and the  
23      matters were resolved with pleas and hearing the  
24      panel decision in one case. And once the  
25      disbarments were entered, there's been no more



1 counsel involved as I recall it.

2 Q. When we talk about the amount of  
3 restitution that is attached to the disbarment  
4 orders, I want to make sure we're clear about what  
5 that number represents and what it does not  
6 represent. So if I was Ms. Smelser and I paid  
7 Mr. Allman \$4500 in a retainer fee -- and I don't  
8 remember if that's how much she paid. That's the  
9 standard number. So I'm just using this as an  
10 example -- \$4500, and hired him to represent her in  
11 some cause of action worth an unknown figure, maybe  
12 zero, maybe a million dollars, just an unknown, when  
13 you guys calculated restitution, is she compensated  
14 at all for the loss of the cause of action that she  
15 might have had that she was hiring Mr. Allman to  
16 represent her on?

17 A. She would not be compensated for whatever  
18 the value of her underlying case claim would be  
19 worth. We focussed on the fee received by the  
20 lawyer, or perhaps maybe the restitution might  
21 contain the fee that the client had to pay the next  
22 lawyer because of the misconduct of the first  
23 lawyer.

24 So in Ms. Smelser's case she did receive --  
25 she did pay a \$4500 fee to Mr. Allman, and the

1       restitution for her would be the \$4500.

2       Q.           Okay. Thank you, sir.

3                   THE COURT: Okay. Mr. Copas, you may  
4       cross-examine.

5                               CROSS-EXAMINATION

6       BY MR. COPAS:

7       Q.           Mr. Willis, Gary Copas.

8       A.           Nice to see you.

9       Q.           Nice to see you, sir, yes, sir. I've had a  
10      lot of cohorts and friends or whatever pass through  
11      your domain.

12                  What I want to do is try to make sure we  
13      have a clear picture about the Board's involvement  
14      in things of this nature. I'm talking about this  
15      criminal court.

16      A.           Yes, sir.

17      Q.           And you made the comment about 208  
18      complaints being filed, and you did make a comment  
19      about -- you spelled out 79 different complaints in  
20      a pleading. You had listed 79 of them?

21      A.           Yes, sir.

22      Q.           Are each of these items, these 79 items, do  
23      they identify an ethics violation?

24      A.           I'd have to go back and look at the  
25      petition to really tell you. The petition I filed

1 was probably about a foot thick, but I can't say  
2 that every one of them listed a particular in -- for  
3 each claim.

4 Q. Well, what I'm leading up to is this, is I  
5 just want to make sure when we talk about  
6 complaints, we're talking about ethic violations and  
7 not individuals. In other words, an individual  
8 could file a complaint and it could maybe list four  
9 ethics violations or whatever?

10 A. Correct. When I say 79, that's 79 people,  
11 clients in Mr. Allman's situation. There were 79  
12 complainants who have made complaints. There might  
13 be only one ethics violation or may have three or  
14 four of five in there.

15 Q. And that -- I mean, the Court's already  
16 heard it and we've heard it before from Ms. Rielly.  
17 She said in her investigation she came across 70  
18 different individuals making complaints. So that's  
19 consistent with that.

20 The other thing is that we're dealing with  
21 ethics violations, and of course I -- every attorney  
22 at one point in time has had somebody walk in the  
23 door and say, I want to sue this attorney for  
24 malpractice because he violated this ethic rule, and  
25 I have to tell them that a violation of an ethic

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1 rule is not in and of itself grounds for  
2 malpractice.

3 A. Correct.

4 Q. And I want to make sure -- in fact, I  
5 thought you -- in reading this transcript from the  
6 receivership proceedings you made a statement here  
7 which reflects my understanding of it myself  
8 forever. You state that the Board doesn't deal with  
9 the legal aspects. It deals with the ethics. We  
10 don't deal with the determination of what interest  
11 Mr. Allman or other lawyers may have in their cases,  
12 whether they engaged in misconduct or whether they  
13 earned a fee or not earned a fee, or got a lien or  
14 don't have a lien. All those legal matters are not  
15 dealt with in your enforcement of ethics; correct?

16 A. Typically not. I mean, only if it's an  
17 ethical violation, you're seeking a lien on  
18 something you have no right to seek.

19 Q. Correct.

20 A. A meritless claim.

21 Q. But in and of itself the ethics violations  
22 would stand alone without anything else. It's not  
23 in and of itself a legal matter. As far as the  
24 Board's concerned it needs to be addressed in some  
25 venue.

1 A. Typically we would leave that to the trial  
2 court to work through and figure out what fee, if  
3 any, belonged to Mr. Allman.

4 Q. And I want to make sure that -- we've heard  
5 so much here. At some point in time after you have  
6 -- in the litigation end of it at some point in time  
7 you take the complaint, whatever it is, to a panel?

8 A. Correct.

9 Q. And, in fact, the panel, I guess, you might  
10 say is a tribunal of the Supreme Court. I mean,  
11 it's a venue that receives everything that goes up  
12 to the Supreme Court for the final orders of  
13 whatever may be done.

14 A. It is the administrative process that the  
15 Court has set up through Rule 9. They have -- at  
16 least in Sumner County, they pick a number of  
17 lawyers at any given time to serve on a panel and  
18 from that panel we would randomly pick out of a hat  
19 three names, and if they don't have a conflict, they  
20 would serve as the tribunal to hear whatever  
21 petition is filed against Mr. Allman. The next  
22 petition we filed had a different panel.

23 Q. Okay. That's what I'm leading up to. When  
24 you file a petition, that is -- is that the  
25 commencement of a proceeding being shifted over to a

1 panel?

2 A. That is when the panel is picked, correct.  
3 That's the -- if I were in a trial court, circuit  
4 court, it'd be the complaint, and that's when you  
5 pick which court you're going to be in and we'd have  
6 them -- we have a panel that serve as the judges.

7 Q. And when you said that you filed a  
8 supplemental petition recently ...

9 A. I filed the fourth disciplinary complaint  
10 because we received more complaints from new people  
11 after these other three petitions were done with.  
12 So now we have a fourth petition that's currently  
13 pending that has 14 different complainants in it.

14 THE COURT: You said 14?

15 THE WITNESS: 14 different  
16 complainants.

17 THE COURT: Okay.

18 BY MR. COPAS:

19 Q. And you identified that. You said a  
20 supplemental petition?

21 A. Well, I filed a petition that had 13 and  
22 then we had -- we got one more complainant in  
23 earlier this year that resulted in a petition that  
24 was filed -- a supplemental petition of that case.

25 Q. Okay.

1 A. So that one petition now has a 13-count  
2 petition and a one-count petition.

3 Q. Okay. The initial petition that went to a  
4 panel, does that panel still maintain jurisdiction  
5 of that initial petition?

6 A. Yes, sir. It's all -- all 14 are heard by  
7 the same panel.

8 Q. In other words, there's been no  
9 adjudication coming out of the panel yet on all  
10 those petitions?

11 A. Right. In fact, that matter stayed pending  
12 the outcome of the criminal trial. I believe -- I  
13 believe some time this month Mr. Allman and I were  
14 supposed to get back with the panel to report on the  
15 progress made in this case.

16 Q. When you get -- when you come up with this  
17 restitution, is there any -- is it reduced to an  
18 enforceable judgment?

19 A. It is in the order of enforcement by the  
20 Supreme Court. I have yet to see any third party  
21 beneficiary of that be able to go to the circuit  
22 court clerk's office or chancery -- clerk and  
23 master's office and get a garnishment and collect on  
24 it. I don't think the Court has --

25 Q. So, to me, the -- I see the restitution

1 amount put down here. In my mind it becomes  
2 something that's got to be addressed if you ever get  
3 reinstated.

4 A. Correct. That's the enforcement mechanism  
5 from the Board's standpoint is if a lawyer wants to  
6 come back from a suspension or a disbarment whenever  
7 their time is up, part of that reinstatement is  
8 going to be you have to pay whatever restitution has  
9 been ordered, and that's where we get the  
10 cooperation of the lawyer at that point.

11 Q. It's got to be worked out, in other words?

12 A. Correct.

13 Q. Now, the -- another statement that was made  
14 -- you made a profound statement in the -- in this  
15 proceeding, the receivership. And the other sort of  
16 profound statement, I think, was made by the  
17 receiver, saying that the receivership is like an  
18 estate bankruptcy, and the estate is the law  
19 practice. So in the law business, if you will,  
20 whatever existed at that time, they took it over,  
21 took all the accounts, took all the files, took  
22 everything. Does the Board -- do they become a  
23 claimant in that receivership?

24 A. Well, the Board doesn't have any claim  
25 other than the cost bill that was part -- we



1 generate a cost bill. We charge the exorbitant fee  
2 of, I think, \$40 or \$50 an hour for our time, but  
3 that's the only claim that we would have.

4           The Lawyers' Fund, which is a separate  
5 board, I think by also the order of enforcement as  
6 well as the rules set by the Supreme Court, they  
7 have the right for whatever payment they made to  
8 recoup that from Mr. Allman. So if there's some --  
9 if Chancellor Oliver decides that Mr. Allman should  
10 receive some of the money that is sitting in the  
11 receivership, then the Lawyers' Fund would, I think,  
12 step in between the Court and Mr. Allman and make  
13 their assertion they are entitled to be repaid for  
14 what they've already paid out.

15 Q.           Well, my -- now, my reading of this is that  
16 when the receiver took over the business, if you  
17 will, any income on there that's accounts receivable  
18 -- what I'm trying to say is if there's any cases  
19 ongoing, that after the fees are paid out in those  
20 cases, I mean, and the client -- whatever fees are  
21 paid out, if there's any earned fee in those cases  
22 that the -- that the law business would have been  
23 entitled to at the time the receiver took over,  
24 earned fees, if you will, then that's held by the  
25 receiver to pay out to any claimants that come in

1     there, make a claim.

2             And what I'm leading up to is this  
3     restitution demand would not prejudice these clients  
4     coming in and getting money from the receiver that  
5     the receiver would be holding when all of this is --  
6     all these cases are finally litigated and settled?

7     A.         Well, I would certainly defer to Judge --  
8     to Chancellor Oliver and how he's going to do it,  
9     but I think there are going to be several different  
10    people coming in to make a claim. There will be the  
11    receiver himself making a claim for his expenses and  
12    fees that he's incurred. The Lawyers' Fund will be  
13    coming in to say that they've made certain payments  
14    to certain claimants on behalf of Mr. Allman.

15            I don't know if the Board will be making a  
16    claim to try to get their cost bills paid. I  
17    seriously doubt that the Board would do that  
18    considering the fact that there will be probably a  
19    number of claimants like Ms. Brown and others who  
20    are going to want to come in and try to get more  
21    compensation for the loss because nobody is being  
22    fully compensated by the Lawyers' Fund.

23    Q.         In other words, we -- there's not going to  
24    be that much there, you think, possibly to fight  
25    over, so to speak?

1 Q. Correct.

2 A. -- along with whatever factors might also  
3 come into play.

4 Q. In other words, I guess what I'm trying to  
5 say is there's got to be a determination of an  
6 unearned fee at some point in time and some  
7 mechanism in order to -- throws that obligation on  
8 that lawyer to separate that fee at that moment and  
9 put it into his trust account?

10 A. Well, typically what you're looking at is  
11 -- and the ethic rules require if you're going to  
12 charge a nonrefundable fee so that it is earned upon  
13 receipt, it has to be in writing, signed by the  
14 client. It has to be, you know, clear and clean so  
15 that the client understands that when I pay my  
16 money, it's gone and it's useable by the lawyer  
17 immediately. Everything else goes into trust until  
18 the lawyer earns it.

19 Now, the lawyer will have to come in and  
20 prove to us or prove to the Court that I have worked  
21 hard enough to reasonably charge the fee and I can  
22 remove it from my trust account. So there's a  
23 combination of ethics and legalities that mix.

24 Q. Correct. And, gee, I don't have the  
25 Supreme Court case in front of me, but where the

1 A. Well, what it is, there's going to be more  
2 hands out than can be compensated fully.

3 Q. And I guess I'm going back to my first  
4 question where you said that the ethic violations  
5 are not legal matters, and you got me thinking there  
6 about earned fees and unearned fees. So the Board  
7 doesn't determine earned fees and unearned fees, but  
8 yet -- I know the Board does -- I mean, the bars do  
9 have mediators that come and try to mediate things  
10 of that nature. Give me your expertise about earned  
11 fees and -- you may not have any, but anyway, is  
12 there --

13 A. Well, I mean, the part that the Board  
14 usually looks at with unearned fees is -- or earned  
15 fees is whether they -- where they should be, should  
16 they be in your trust account or not, and what do  
17 the facts tell us. And the Courts also look at the  
18 fees and decide what's to be awarded, what's a  
19 reasonable fee, but the ethic rules do cover  
20 unreasonable fees, improper fees --

21 Q. They have a guideline. In fact, I've used  
22 that when I've gotten fees in minor cases,  
23 settlements.

24 A. And that's what the Court uses too, is that  
25 10-factor --

1 Supreme Court talked about retainers.

2 A. Probably the Connie Reguli case --

3 Q. Correct.

4 A. -- would be the one I would think of.

5 Q. Right.

6 A. That's one of them.

7 Q. And maybe -- my recollection -- I could be  
8 wrong on this, but that the money received -- in  
9 other words, most attorneys and even everybody I  
10 know of on retainer fees, whatever they get in  
11 retainer fees, they pay income tax on that, whatever  
12 comes into, you know, their hands. But the -- but  
13 that particular case my recollection is that if  
14 there is an agreement that that fee will be billed  
15 against, it becomes what the Court -- the Supreme  
16 Court calls a secured retainer, and that money the  
17 Court has specifically stated that that's not  
18 attorney property. That's client property.  
19 Otherwise a retainer is client property, which leads  
20 me to a situation that -- on the very beginning, on  
21 the get-go it's not requir- -- I mean, it's not  
22 earned -- it's not -- the unearned part is not  
23 determined at that moment, but once it is, you have  
24 to do something with it.

25 I guess the -- I guess a practical matter,

1     there's no way under the sun that you could probably  
2     take a \$5,000 retainer and it not -- except in a  
3     criminal case, of course, to where you're bound to  
4     that court for the most part. There is no -- you  
5     know, as a practical matter in a civil case, a  
6     \$5,000 -- you know, a \$25,000 retainer would not  
7     really cover any kind of initial work that an  
8     attorney does. In essence there is going to be some  
9     unearned fee money involved in the 25,000. So I  
10    guess it's a gray area. I'm trying to cross that  
11    bridge. I'm having a hard time getting there.

12                 And having handled employment type cases, I  
13    know that there is an administrative process you go  
14    through to where in some cases the case is settled;  
15    there's no money coming in; that's it. You know,  
16    there's no other money -- no money to get, and that  
17    retainer tries to cover your time in that  
18    administrative process.

19                 THE COURT: Mr. Copas, ask a question,  
20    please.

21                 MR. COPAS: I'm sorry, Your Honor. I  
22    guess I get to talking too much.

23                 THE COURT: That's okay.

24                 MR. COPAS: I'm sorry.

25    ///

1 BY MR. COPAS:

2 Q. Let me -- you mentioned that you -- a lot  
3 of clients have not heard anything at all except  
4 what they saw in the paper?

5 A. Yes, sir. I --

6 Q. Did that precipitate the receivership?

7 A. That was part of that process of the fact  
8 being that clients -- both the associates at the  
9 firm were reporting to me that clients were coming  
10 in and they thought they had meetings set up with  
11 Mr. Allman because they had spoken to him and they  
12 were trying to get their file and then the  
13 difficulties -- a lot of clients calling saying, I  
14 can't get a return phone call and what I did get was  
15 empty; I need my file.

16 And so I turned and would make the request  
17 of Mr. Hawkins who was primarily the person at that  
18 point in time that you need to get these files out;  
19 please work on that. And the phone calls kept  
20 coming and then Mr. Hawkins withdrew. So at that  
21 point the receiver seemed like the best route to go  
22 and the Board agreed and I filed the matter.

23 Q. And then the receiver makes a statement  
24 here that -- first of all, there was an order  
25 appointing him receiver and told him to take

1 possession of all the accounts and files and  
2 everything?

3 A. Correct.

4 Q. And then during the receivership hearing,  
5 the -- Mr. Powers made a statement that he looked at  
6 the hard drive and pulled off 230 files?

7 A. I think -- I don't remember whether that  
8 was something he pulled off the hard file or whether  
9 that was what Mr. Allman gave him, but, yes, it  
10 looked like there was -- I think from the receiver's  
11 standpoint there were 230 files.

12 Q. Anyway I can tell you that my information  
13 is that the hard drive has got approximately 230  
14 files. That was Mr. Powers' testimony.

15 A. Right.

16 Q. And that we started the process of --  
17 you've got here a goal is to find attorneys for all  
18 these people that don't have one, and that he had  
19 already gone through the Ds and the Es at that  
20 moment and was still continuing on. So we are  
21 assuming that most everybody -- all the clients on  
22 those hard drives or whatever -- had reached out to  
23 -- the receiver had reached out to them.

24 And I gather also from this process -- was  
25 it -- is it -- I'm assuming that if any client



1 contacted Mr. Allman that -- if they had not  
2 received anything from the receiver, they should  
3 contact the receiver because he was having a time  
4 trying to get everything together?

5 A. Correct. And at that point I think the  
6 receiver was -- had the possession of -- or should  
7 have had possession of everything. I know there was  
8 difficulty with the TBI had possession of his server  
9 for a while.

10 Q. Well, what I'm getting at is that there was  
11 contact with clients after his suspension. I'm  
12 trying to show that there was -- that the only thing  
13 really that he could do was to at least communicate  
14 to these clients that if they'd not received the  
15 information from the receiver, they needed to  
16 contact that receiver and confirm whether or not  
17 they had an attorney.

18 A. Well, certainly from the Board's  
19 perspective if clients called Mr. Allman to inquire  
20 about their case, it was not improper for him to say  
21 please call the receiver --

22 Q. Okay. That's what I'm getting at.

23 A. That's -- if that's what you're getting at.

24 Q. Yeah.

25 A. That's not the unauthorized practice of law

1 from the Board's perspective.

2 Q. Okay.

3 A. If you go beyond that and start talking  
4 about let me tell you what we need to do next, or  
5 here's what we're going to be doing -- and I had a  
6 number of people make that allegation to me.

7 Q. In other words, ethically you can't do  
8 that?

9 A. Ethically, once you are suspended --

10 Q. Correct.

11 A. -- after that 30 days runs and you've got  
12 -- you should have withdrawn from the case, the  
13 client should know that you're not the lawyer. And  
14 there's nothing improper with, you know, giving the  
15 information to the new lawyer or providing the  
16 client with their file, but don't continue to act  
17 like the lawyer in the ongoing case.

18 Q. Thank you.

19 THE COURT: General, anything else?

20 GENERAL DEAN: No, sir.

21 THE COURT: I've got a couple of  
22 questions. Mr. Willis, thank you for spending the  
23 afternoon with us. How long have you been with the  
24 Board of Professional Responsibility?

25 THE WITNESS: It's been eight years

1     this past February.

2                   THE COURT:  And what are your -- well,  
3     what is your title?

4                   THE WITNESS:  I am currently the  
5     deputy chief disciplinary counsel.

6                   THE COURT:  And what do your duties  
7     consist of?

8                   THE WITNESS:  I litigate all the  
9     formal petitions and oversee a group of four other  
10    lawyers who do the same thing.

11                  THE COURT:  Okay.  Now, in looking at  
12    cases here, we've got a total of -- or complaints --  
13    222, and that includes the fourth petition that's  
14    pending.  My notes show that investigation into  
15    complaints probably began somewhere around the end  
16    of 2015.  And then we have the disbarment July 30,  
17    2018, close to three years.  Does this fourth  
18    petition extend the time past 7/30/18?

19                  THE WITNESS:  It depends on how it's  
20    going to be resolved.  If it's resolved with a  
21    private -- with a public censure, then it wouldn't  
22    be anything that would extend the time for him to --  
23    if you're talking about the five-year --

24                  THE COURT:  No.  What I'm talking  
25    about is the length of time that he might have been

1 involved in unethical conduct. And your  
2 investigation on this beginning around the end of  
3 2015 to 7/30/18, these 14 complaints that came in,  
4 do they go past the period of time of 7/30/18, or  
5 were they all generally within this period and it  
6 just came up late?

7 THE WITNESS: I would have to go back.  
8 I did not look at that particular petition, but I  
9 would tell you that generally speaking they're going  
10 to be cases that were back in the 2015, '16, and '17  
11 time frame.

12 THE COURT: Okay. Very good. Thank  
13 you.

14 In the investigation of these  
15 complaints, what different courts were Mr. Allman  
16 involved in that were affected?

17 THE WITNESS: The courts that I know  
18 of would be the federal district courts and the  
19 Davidson County Circuit Court, and I believe there  
20 was maybe one in Sumner County that cases all got  
21 removed.

22 THE COURT: Okay. So you're talking  
23 about state trial courts --

24 THE WITNESS: Yes, sir.

25 THE COURT: -- and district court and

1 the federal court. Okay.

2 THE WITNESS: I believe there may have  
3 been one Texas court too.

4 THE COURT: Okay. What's the status  
5 of the receivership now?

6 THE WITNESS: It's still ongoing. I  
7 don't know when it's going to be resolved. I would  
8 like to think that sometime this year all the  
9 matters will be ripe and that Mr. Powers can present  
10 the ultimate -- the final accounting to Chancellor  
11 Oliver and submit his fees and people can make  
12 claims if they're going to make them.

13 THE COURT: Now, all of these files  
14 that were given to the receiver, have they been  
15 turned over to law enforcement for investigation  
16 purposes?

17 THE WITNESS: I don't know if they  
18 were turned over for investigation. I believe that  
19 they -- that the TBI got the servers first and then  
20 Mr. Allman got them back and Mr. Powers then  
21 received them from either his lawyers or from the  
22 TBI. I don't recall.

23 THE COURT: These are amazing numbers.  
24 You've got 222 complaints. You've got \$1,100,000  
25 in restitution which doesn't cover a loss of a cause

1 of action over a period of time '15, '16, '17,  
2 possibly three years. Did Mr. Allman ever explain  
3 what was going on here?

4 THE WITNESS: Initially, I think -- I  
5 got a pretty good sense of what the response was and  
6 was going to be every time I spoke with Mr. Allman.  
7 Primarily it was these clients don't know what  
8 they're talking about, I've got their case handled,  
9 or they're -- I've spoken to them and they're  
10 withdrawing their complaint. And that was sort of  
11 the theme all the way through the cases.

12 THE COURT: Did anybody ever withdraw  
13 their complaint?

14 THE WITNESS: There may have been one  
15 person of the 222 so far that said, I'm okay.

16 THE COURT: Okay.

17 THE WITNESS: I know there were some  
18 initially that we were involved in that got their  
19 money back. There was a -- the very first few who  
20 were able to get a payment kept them from making  
21 claims with us but, ultimately, they would make --  
22 you know, they ultimately came to us with a  
23 complaint.

24 And in all fairness to Mr. Allman  
25 there are some of these complaints that initially

1 were dismissed that aren't a part of this complaint.  
2 We had other complaints that got dismissed, and  
3 that's pretty common of this.

4 THE COURT: Okay. Well, looking at  
5 the figures here, in your eight years have you ever  
6 had an investigation of a lawyer as massive as this?

7 THE WITNESS: Not in numbers, no.  
8 There's certainly been some pretty big theft cases  
9 in Tennessee, and not all of these, I think, are,  
10 quote, theft cases, but there are a lot of  
11 no-work-being-done allegations. So, you know, from  
12 a Board perspective, a lawyer takes their retainer  
13 and then doesn't do any work. That looks like an  
14 unfair fee and a fraudulent, maybe,  
15 misrepresentation type of thing.

16 THE COURT: Okay.

17 THE WITNESS: But there were a number  
18 of theft cases in this -- in these 222 cases.

19 THE COURT: Do you know or did anybody  
20 do an investigation as to where all this money went?

21 THE WITNESS: We try. The difficulty  
22 in this particular case was that there was rarely  
23 ever a written response back to us with the details  
24 and the information that we would ordinarily get.  
25 So with Ms. Ponce, who had the \$24,000 settlement

1 check, there was never any proof -- never any bank  
2 statement given to us that showed the money was  
3 promised to be coming.

4 Ultimately, we subpoenaed his bank  
5 records. That was done in the investigative side.  
6 I don't recall what the outcome -- or what those  
7 bank records show, but when you get into a case like  
8 this where there's a lot of \$4500 numbers and  
9 they're not showing up in the bank statements and we  
10 think they ought to be in the bank statements, we --  
11 it's our view that when you've got the \$4500  
12 retainer, he'd done no work for the client yet. It  
13 should be put into the trust account, and then from  
14 there when he did the work he could take the money  
15 out.

16 When we got the bank records, there  
17 were very few \$4500 that we could actually look at  
18 and match up with all these different numbers. So  
19 that's -- it looked like to us that money was not  
20 going in where it ought to go, and for us that's a  
21 misappropriation. He may well have earned it a  
22 month or two or three later, and that's the sort of  
23 proof we would depend upon Mr. Allman to give us and  
24 that's what we would be asking for, and that was  
25 never shown to us. So we went forward with the

went further - petition of stay  
with only one side of story



1 petitions with only one side of the story, and  
2 that's the clients'.

3 THE COURT: And what was his response?  
4 What was his defense when you tried the one petition  
5 in front of the panel?

6 THE WITNESS: Well, I went to  
7 Lawrenceburg, I believe, to try that case and  
8 Mr. Blackburn and Mr. Allman declined to participate  
9 in that matter.

10 THE COURT: What do you mean "declined  
11 to participate"?

12 THE WITNESS: Well, it was set for  
13 trial and Mr. Blackburn -- as I recall,  
14 Mr. Blackburn called me and said, I don't plan to be  
15 there. So I went down and tried it based upon --

16 THE COURT: Okay. They declined to  
17 participate and it resulted in a disbarment?

18 THE WITNESS: Yes, sir. And I did  
19 have one person who drove, I think, from Wilson  
20 County. A client came down and she testified at the  
21 hearing.

22 THE COURT: You've got a lot of  
23 experience here, Mr. Willis, with investigations and  
24 attitudes and actions of attorneys. Can you tell me  
25 what in the world has gone on here?

1 THE WITNESS: I can't tell you with  
2 any certainty, Judge, because I'm only reading the  
3 tea leaves. It looked like -- and I've known  
4 Mr. Allman from a reputation standpoint prior to all  
5 this happening, and I have a number of friends like  
6 Mr. Longmire who knew him well. He had a good  
7 reputation. He did good work. He got some good  
8 results for clients, and then it looked like perhaps  
9 he just tried to grow his practice, got overwhelmed,  
10 got behind, and to make ends meet began to take  
11 money in and promise to do the work but couldn't  
12 keep up, because it's really him and some really  
13 young lawyers who you can't turn loose to do this  
14 type of work without being overseen, and he just ran  
15 into that problem. And then instead of stopping  
16 and admitting it, he just continued to take in more  
17 to try to keep the practice going, and then the  
18 cards fell and people started to complain. And the  
19 initial people got money back and so they were  
20 satisfied, but the rest of them couldn't get ahold  
21 of him and couldn't get their money back, and  
22 complaints started to fall in pretty quickly with  
23 us.

24 THE COURT: Okay. Mr. Willis, you've  
25 been invaluable helping me to try to get some of

1 this together.

2 Any questions from any of the  
3 attorneys?

4 MR. COPAS: Your Honor, I --

5 THE COURT: Mr. Copas, go ahead. Go  
6 ahead.

7 GENERAL DEAN: Judge, can I borrow  
8 Exhibit 2 while he's --

9 THE COURT: Yes, sir.

10 GENERAL DEAN: I'm sorry to keep  
11 borrowing that from you.

12 THE COURT: It's all right.

13 GENERAL DEAN: Thank you.

14 BY MR. COPAS:

15 Q. I guess every attorney at one time has  
16 received some complaint they've got to respond to,  
17 and it seems like the common one we always see is  
18 the word "diligence," that the -- that, you know,  
19 that you've not been diligent. And what's the fine  
20 line between not being diligent and not doing the  
21 work? I mean, after -- you know, if I've ever had  
22 one said lack of diligence, after they heard what I  
23 do, then they came back and said, you know, we don't  
24 -- we don't want to proceed.

25 But, you know, sometimes an attorney's work

1 log can be so heavy that it's hard for him to -- you  
2 don't look at diligence as being able to respond to  
3 something within 30 days or 60 days. It may be  
4 three months before he can get going down the pike.

5 What's the line between diligence and not  
6 doing the work? That's what I'm -- it may be an  
7 impossible question to answer, but I'm just feeding  
8 it out to you.

9 A. Well, I think in general it's going to be  
10 factually driven. If I've got a deadline to file my  
11 motion and I don't file it and I missed the  
12 deadline, and I'm not in the hospital, I'm not in a  
13 coma, that's probably a diligence problem. If the  
14 client's called you three times today and you've  
15 talked to them twice already and you wait until a  
16 couple of days later to call them, that's probably  
17 not a diligence issue unless it's extraordinarily  
18 important that there -- you know, that you've got an  
19 offer on the table that's going to expire at noon  
20 tomorrow and you're not calling your client with it  
21 immediately. That's probably a diligence problem.  
22 But it's factually driven, I think.

23 Q. Well, I guess what I'm trying to say is  
24 that the Board -- you're concerned with the ethics  
25 of it, which is diligence, and the legal part of it

1 is concerning whether or not that you've taken money  
2 knowing that you can't do all the work.

3 A. Well, I think that's an ethical issue too.  
4 If you're taking --

5 Q. Well --

6 A. -- money you know you're not going to --

7 Q. Right.

8 A. -- then you're telling a client I've got  
9 you covered and you know you don't, I think that's  
10 probably a misrepresentation and deceit.

11 Q. So it's -- again, it's a fact situation?

12 A. It's a fact situation, clearly.

13 Q. Thank you.

14 GENERAL DEAN: Just very briefly,  
15 Judge. Oh, I'm sorry. He's --

16 THE COURT: Go ahead, General. I'll  
17 let him come back up if he has another question.

18 REDIRECT EXAMINATION

19 BY GENERAL DEAN:

20 Q. Mr. Willis, was there a -- one of the  
21 orders of enforcement, was there an amended order  
22 that was ultimately filed to substitute?

23 A. Yes, there was.

24 GENERAL DEAN: Okay. Judge, the  
25 amended order was not in here. I have a certified

1 copy of it. So I'd either like to add it to Exhibit  
2 2 or make it its own exhibit just for completeness  
3 sake.

4 THE COURT: Okay. Let's make that  
5 Exhibit Number 3.

6 (Exhibit 3 received into evidence.)

7 GENERAL DEAN: Thank you, Judge.

8 THE COURT: Any other questions,  
9 Mr. Copas?

10 MR. COPAS: I guess one more -- sorry,  
11 Your Honor.

12 THE COURT: That's okay.

13 MR. COPAS: One more question.

14 RECROSS-EXAMINATION

15 BY MR. COPAS:

16 Q. I guess for the most part, I mean, most  
17 attorneys put in something in there about  
18 nonrefundable except in certain cases we can't do  
19 that, domestic cases. But in all of my employment  
20 law cases -- and when I read his contract too, and  
21 it sort of had the same language, is that the  
22 retainer -- it doesn't say the retainer will be  
23 refunded, but it does say that whatever attorney fee  
24 comes out -- whatever the contingency fee turns out  
25 to be, if there's recovery, you'll be given credit

1 for the retainer. Is that -- is that considered to  
2 be ...

3 A. Well, as I remember Mr. Allman's litigation  
4 agreement, it was a combination of a contingency fee  
5 and then this flat fee of \$4500 if he has to do  
6 something on the administrative side to then bring  
7 the lawsuit, and that was an EEOC. And so as I  
8 recall it, it doesn't say it's nonrefundable, which  
9 if it's going to be nonrefundable, it has to say it.

10 Q. Well, in all my -- looking at all the  
11 discovery I've been given, I saw some statement you  
12 made sometime saying it was a flat fee, the 4500?

13 A. It looks like it's a flat fee contract to  
14 me, which under my theory what I've used in all my  
15 cases was that when he took the money from the  
16 client, it had to go into trust, and then whenever  
17 he did the work that was necessary, if it was, then  
18 he could then remove the \$4500 from the trust  
19 account and put it in his operating account.

20 Q. Okay. That -- I don't want to put words in  
21 your mouth. You said that's your interpretation of  
22 his contract?

23 A. That was my view of it. That's how I --

24 Q. That was your view?

25 A. Yes, sir.

1 Q. And just for the record, is there any  
2 opinion rendered by the Board as to how fees like  
3 that are to be handled?

4 A. I don't know if there's a formal ethic  
5 opinion or not that covers that particular issue. I  
6 don't know. I didn't do the research beforehand to  
7 let you -- if I'd known what you wanted I could have  
8 maybe looked at all the --

9 Q. Well --

10 A. -- formal --

11 Q. -- if I may make this request if the -- if  
12 you find something like that, could you send it to  
13 me?

14 A. Sure.

15 Q. Thank you.

16 THE COURT: Okay. Mr. Willis, thank  
17 you, sir. I know you're very busy. You may be  
18 excused.

19 THE WITNESS: Thank you very much.

20 THE COURT: Yes, sir.

21 Let's take a recess here. What I'd  
22 like to do -- how many witnesses do you have?

23 GENERAL DEAN: Judge, I have two more,  
24 one by phone.

25 THE COURT: I know. I'm not thinking



1     about --

2                   MR. COPAS: Judge, I have two members  
3     of the bar. They'll be very short.

4                   THE COURT: Okay. What I'm going to  
5     do is I want to hear the live witnesses that are  
6     here next, and then we'll see where we are on the  
7     time. We might have to go over until tomorrow  
8     morning.

9                   MR. COPAS: Your Honor, if I may, if  
10    he could retrieve something from --

11                  THE COURT: Yeah. If he needs to  
12    retrieve something, that's fine. We'll go through  
13    that during this recess.

14                  MR. COPAS: Thank you.

15                  THE COURT: Thank you.

16                  (Recess taken.)

17                  THE COURT: Thank you, everybody. Be  
18    seated, please.

19                  Okay. General, you can call your next  
20    witness. Before you do that, General, let me ask  
21    you how do you plan on a telephone conference with  
22    this witness?

23                  GENERAL DEAN: Judge, the only thing I  
24    can do is go over speakerphone and we've got it set  
25    up to where he can do it over the court system.

1 THE COURT: Good. Good. So you've  
2 got that covered.

3 GENERAL DEAN: I don't know about him  
4 hearing us.

5 COURT OFFICER: He should be able to  
6 hear us just fine.

7 GENERAL DEAN: Through the  
8 microphones? We should have tried that out. I  
9 didn't think to. We called to make sure it could  
10 call, and he called me and he could hear me just  
11 fine, but I don't know that I paid much attention  
12 about the other way.

13 THE COURT: Okay.

14 GENERAL DEAN: We can try it.

15 THE COURT: Well, go ahead and call  
16 your witnesses here.

17 GENERAL DEAN: Did -- well, Judge, I  
18 was going to hold my -- this is my officer --

19 THE COURT: Sure.

20 GENERAL DEAN: -- and I was going to  
21 hold her until last.

22 THE COURT: Okay. That's fine.

23 GENERAL DEAN: Now, he's got some live  
24 witnesses that are here.

25 THE COURT: Okay.

1                   GENERAL DEAN: And we've also got --  
2 for purposes of possible bond supervisor, Ms. Meyer  
3 from community corrections is here. I've got her  
4 number if we want to let her go and just --

5                   THE COURT: I don't know if we're  
6 going to be finished today, Ms. Meyer. Why don't  
7 you go ahead and leave and we'll get in touch with  
8 you, okay?

9                   MS. MEYER: Okay. I left my number  
10 just in case.

11                  THE COURT: Okay. Thank you.

12                  MS. MEYER: Thank you.

13                  THE COURT: Okay. Mr. Copas, call  
14 your witnesses here.

15                  MR. COPAS: Yes, Your Honor.  
16 Mr. Willis mentioned Attorney Hawkins --

17                  THE COURT: Yeah.

18                  MR. COPAS: -- and I've tried to call  
19 him and he didn't return my calls, but I've got an  
20 affidavit.

21                  THE COURT: Sure. Sure. We'll make  
22 that Exhibit Number 4.

23                  MR. COPAS: Correct, Your Honor.

24                  THE COURT: General, have you seen  
25 that?

1                   GENERAL DEAN:  No, sir.

2                   THE COURT:  We need to make a copy for  
3                   the General.

4                   I understood the Governor has ordered  
5                   everybody to stay at home except for essentials now.  
6                   Is that correct?  He did it this afternoon?

7                   GENERAL WALKER:  I received an e-mail,  
8                   Your Honor.

9                   THE COURT:  Yeah.  You can't go out  
10                  unless it's for something essential now.

11                  GENERAL WALKER:  It remains in effect  
12                  until April 14.

13                  GENERAL DEAN:  Mr. Copas, these are my  
14                  copies?

15                  MR. COPAS:  Yeah.

16                  GENERAL DEAN:  Thank you.

17                  MR. COPAS:  Your Honor, just -- these  
18                  are the copies of family and relatives, members --

19                  THE COURT:  Okay.  We'll make copies  
20                  of those.

21                  MR. COPAS:  This is the original.  
22                  That's for the Court.

23                  THE COURT:  Okay.  We need copies of  
24                  those for the attorneys?

25                  MR. COPAS:  No, Your Honor.  We've got

1 copies.

2 THE COURT: Oh, you've got copies.  
3 Okay. Make a copy for me -- no. No. That's the  
4 exhibit itself. Okay. Where is the Exhibit Number  
5 4 from Mr. Hawkins? All right. Make that Exhibit  
6 Number 4 and make this Collective Exhibit Number 5.

7 (Exhibit 4 received into evidence.)

8 (Exhibit 5 received into evidence.)

9 THE COURT: Okay. Mr. Copas, you call  
10 any witnesses that you have here.

11 MR. COPAS: I have Nancy Corley, Your  
12 Honor.

13 THE COURT: All right. Sure.

14 MR. COPAS: She's been around a  
15 long --

16 THE COURT: Yeah, I know Ms. Nancy.

17 MR. COPAS: I'm going to be careful  
18 what I say because I've been around a long --

19 THE COURT: I understand. Ladies can  
20 get upset.

21 ///

22 ///

23 ///

24 ///

25 ///

1 NANCY CORLEY,  
2 called as a witness, having been duly sworn, was  
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COPAS:

6 Q. State your name for the record.

7 A. Nancy Corley.

8 Q. Nancy, you are an attorney --

9 A. Yes.

10 Q. -- in Tennessee, and you reside in  
11 Hendersonville?

12 A. Now, yes.

13 Q. And we've crossed paths a few times in  
14 Nashville?

15 A. Yes.

16 Q. And you -- and we were opposing paths, you  
17 might say at that moment?

18 A. Yes.

19 Q. But anyway you -- most of your practice has  
20 been in Nashville?

21 A. I do civil litigation.

22 Q. And as far as in the community here you  
23 have served an elective office?

24 A. I was a county commissioner for 16 years.

25 Q. And you have been active in the community

1 as far as public interest groups, if you will, that  
2 helps to carry on the activities of the county and  
3 whatever?

4 A. I'm on the board of Children Are People,  
5 Salvus Center, Women's Political Collaborative,  
6 League of Women Voters, a lot of stuff.

7 Q. And the reason I'm -- and I appreciate you  
8 being here under the circumstance with what's going  
9 on with all the orders coming from the Supreme  
10 Court.

11 A. I'm trying not to touch anything.

12 Q. We just heard a statement from Mr. Willis.  
13 When the Court asked Mr. Willis do you have an  
14 explanation for what's happened here, and he made  
15 the comment about the practice -- Mr. Allman was  
16 overwhelmed with his practice and what -- got in a  
17 situation to where he just couldn't pull the plug on  
18 it and then -- anyway, the plug has been pulled.  
19 We're here.

20 And what I want the Court to hear from you  
21 is what you've observed. How long have you known  
22 Mr. Allman and how have you observed his  
23 participation with the community before all this  
24 happened?

25 A. I was friends with Andy's father and his

1 mother, Gloria. Gloria and Alan, we were friends  
2 back when my husband and I first got married and  
3 moved here and moved to Hendersonville. So I've  
4 basically known Andy almost all of his life. He's  
5 the same age as my children. So they all went to  
6 high school together. But he and I really got to  
7 know each other when I taught him in law school, and  
8 so --

9 Q. Is this the Nashville School of Law?

10 A. Yes. I taught him at the Nashville School  
11 of Law, and after that we -- our relationship  
12 changed from rather than me being friends with his  
13 parents that Andy and I became friends under  
14 different -- as colleagues and friends at a  
15 different level. So I referred cases to him. He  
16 and I have tried cases with each other.

17 And when they implemented the mandatory  
18 electronic filing in federal court, I basically  
19 associated Andy with the cases that I had that  
20 required -- employment law cases that had to go to  
21 federal court because I'm not -- at that time I was  
22 not a fan of computers. So it's kind of a joke.

23 Q. In other words you had -- I guess you might  
24 say you had a trusting business relationship with  
25 him?



1 A. He was a good lawyer. He took care of his  
2 cases. He knew what he was doing. As I said, he  
3 and I worked together on cases, employment cases,  
4 and I started referring cases to him when I quit  
5 doing them because he knew what he was doing.

6 Q. There's been -- of course you've not been  
7 present here in the courtroom. There has been  
8 discussions about a house arrest situation.

9 A. I'm sorry?

10 Q. Him being under house arrest with a  
11 monitor. Is the public -- is there any kind of risk  
12 that you're -- are you aware of any risk that he  
13 would be to the public under house arrest?

14 A. I can't envision that Andy would flee the  
15 jurisdiction of the court. He's got a wife here,  
16 his children are here, his -- you know, his roots  
17 are here. So if he were going to run, I think he'd  
18 have run a long time ago. So I can't see that he's  
19 any risk in that respect.

20 Q. If he was under any kind of real  
21 restrictions in that house arrest situation where he  
22 could not have any communications or contact with  
23 the outside world at all, do you think he could live  
24 up to that?

25 A. I would not see any reason why not. I

1 would -- I don't know any reason why he wouldn't do  
2 that.

3 Q. He's proud of the fact that you sponsored  
4 him to the Supreme Court?

5 A. Yes, I am. He was a good lawyer. He was  
6 an excellent student. He was a good lawyer. You  
7 know, obviously I thought he took care of his  
8 clients, or I wouldn't have sent my clients to him  
9 and I wouldn't have associated him in cases. It's  
10 just ...

11 Q. Thank you.

12 THE COURT: Okay. General, any  
13 questions?

14 CROSS-EXAMINATION

15 BY GENERAL DEAN:

16 Q. You said Andy was a good lawyer. When were  
17 you dealing with him as an attorney?

18 A. When they -- I know we -- after they did  
19 the mandatory electronic filing in federal court,  
20 then when I had an employment case, that was the  
21 person I would send them to. So whenever --

22 Q. What time frame, though, are we talking  
23 about that that --

24 A. How long have they had electronic filing in  
25 federal court? Probably -- I know it's been longer

1     than probably 10 years.    So maybe 15 years.

2     Q.            So --

3     A.            I'm trying to remember where my office was  
4     when he and I were doing cases together.

5     Q.            Okay.    So we're talking about your  
6     experiences with Mr. Allman as a practicing attorney  
7     were 10 or 15 years ago?

8     A.            No.    That's when -- I'm trying to answer  
9     when I started referring cases to him.

10    Q.            Okay.

11    A.            So I say he was a good lawyer because he's  
12    not currently a lawyer so -- but, you know, the  
13    whole time that he was actively practicing I had no  
14    reason to doubt that he was a good lawyer.

15    Q.            Were you familiar with the number of bad  
16    checks he was writing to people?

17    A.            No.

18    Q.            Were you familiar with any times that his  
19    home has gone close or into foreclosure in recent  
20    years?

21    A.            I am on some of that after he was no longer  
22    practicing law.    I did know that there was some  
23    difficulty with that.

24    Q.            Are you familiar with him having filed  
25    bankruptcy?

1 A. I understand that he did, but I thought it  
2 was -- I don't think that -- not discharged, but it  
3 was --

4 Q. It was dismissed. Now, I'm not trying to  
5 make it more than it is, but he did file for  
6 bankruptcy.

7 A. I understand, yes. I mean, I know that  
8 from --

9 Q. Okay.

10 A. -- street rumor and hearsay.

11 Q. Well, with your knowledge of Mr. Allman  
12 back in March of 2014, do you have any knowledge of  
13 him receiving 109,000 -- approximately \$109,000 that  
14 was to be held in trust for a young man named Gage  
15 Dycus that came from his mother's estate?

16 A. The only thing I know about that is street  
17 rumor and, you know, comments that people have made  
18 and, you know, I don't know anything personally.  
19 It's all hearsay, I guess.

20 Q. So you don't know whether Mr. Allman took  
21 that money that's owed and spent that trust money?

22 A. No, I do not know. I would be disappointed  
23 and surprised to find that he did, frankly.

24 Q. If he did take 109,000 in trust money from  
25 Kevin Dycus and 119,000 from another estate and

1 230,000 from another estate, that would indicate  
2 that maybe your current assessment of Mr. Allman  
3 might not be complete, might be a little flawed.  
4 Would you agree with that?

5 A. If it turns out that he did those things, I  
6 would be very sad and disappointed. I can't think  
7 of another word for it. I would just be really sad  
8 and very disappointed that it all happened.

9 Q. Are you aware of cases -- or clients Wanda  
10 Kelley and Lisa Smelser who he solicited a retainer  
11 from several months after he was suspended?

12 A. I've never heard their names. No, I don't  
13 know anything about that.

14 Q. Are you aware of a client named Mario  
15 Herrera that Mr. Allman took \$59,000 of his trust  
16 money and did not hold it in trust but took it as  
17 his own back in 2014, '15?

18 A. I have heard the name. I've heard the  
19 story. I don't know anything about it obviously  
20 personally. I do know who that person is.

21 Q. Have you had any conversations with  
22 Mr. Allman about it?

23 A. Yes.

24 Q. What did he say about it?

25 A. He -- that at the time he was trying to

1 basically help the guy out because it's a  
2 no-good-deed-goes-unpunished kind of a situation.

3 Q. Okay. Did he have -- did he provide you  
4 any explanation as to why Mr. Herrera's \$59,000  
5 would be spent by Mr. Allman virtually the same day?

6 A. I have no knowledge of that.

7 Q. Okay. Are you aware of Mr. Allman  
8 continuing to talk to Mr. Herrera and give him legal  
9 advice up to and including this year?

10 A. I understand that he had conversations with  
11 him, but I don't know anything about him giving him  
12 legal advice except I'm not -- you know, get -- you  
13 need to get a lawyer. I don't know if that's legal  
14 advice.

15 Q. Judge Wheatcraft used to say that the best  
16 judge of future behavior is people's past behavior.  
17 Would you agree with that adage?

18 A. To some extent. I always think, you know,  
19 there's redemption.

20 Q. Agreed. Thank you.

21 THE COURT: Anything else?

22 Ms. Corley, thank you for coming. And  
23 that's C-o-r-l-e-y. That's how you spell it,  
24 Miss Court Reporter.

25 THE WITNESS: Yes.

1 THE COURT: Thank you. You may be  
2 excused.

3 THE WITNESS: I don't normally come to  
4 your court.

5 THE COURT: I know you don't.

6 THE WITNESS: I know. This is a new  
7 experience.

8 THE COURT: It's a new experience.  
9 And much less as a witness.

10 Call your --

11 THE WITNESS: Well, that's even worse.

12 THE COURT: No kidding.

13 THE WITNESS: I gave a deposition one  
14 time, and when I got done, my lawyer said it was the  
15 worst deposition he had ever had a client give in  
16 his whole life.

17 THE COURT: It's difficult for  
18 attorneys to be witnesses.

19 Call your next witness.

20 MR. COPAS: Jim Edwards.

21 ///

22 ///

23 ///

24 ///

25 ///

1 JIM EDWARDS,  
2 called as a witness, having been duly sworn, was  
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COPAS:

6 Q. Please state your name for the record.

7 A. I'm Jim Edwards.

8 Q. Mr. Edwards, you're an attorney here in  
9 Lebanon?

10 A. Yes, sir.

11 Q. And how long have you been practicing?

12 A. Since 2017.

13 Q. Okay. And you know Mr. Allman. And let me  
14 say this also if you can hear me. Is that when all  
15 this stuff started -- when I stay stuff, all the  
16 things we've been hearing here. You've been  
17 representing Mr. Allman in different matters; is  
18 that correct?

19 A. Civil matters, yes, sir.

20 Q. And so we've got an attorney-client  
21 situation here. I'm not going to go into that  
22 period of time, and I'm going to sort of approach it  
23 in the same manner that I did with Ms. Corley. And  
24 Mr. Willis that was here, when he was asked by the  
25 Court, you know, what happened here, and he talked



1 about Mr. Allman's practice sort of escalating, if  
2 you will, because of it -- apparently because of his  
3 reputation or whatever, but he just got overwhelmed  
4 with cases that he could not handle and his  
5 personnel was not versed well enough to handle it  
6 without being managed, and that Mr. Allman just  
7 could not pull the plug on it and tried to make it  
8 keep going, if you will.

9 And as I told Ms. Corley the plug has now  
10 been pulled, and I asked her her knowledge of  
11 Mr. Allman before all this started, in other words,  
12 in the precondition whenever he was not under any  
13 obligation to pull a plug, which is not now anymore.

14 How long have you known Mr. Allman?

15 A. I remember the year that he ran for state  
16 representative. I don't remember how far back that  
17 was, but I'm going to say it was back into the --  
18 prior to 2000, maybe as far back as, you know, like  
19 1989, somewhere back in then, I guess.

20 Q. I mean, did you -- you knew of him, of  
21 course, then. Did you know him personally?

22 A. Well, I just knew of him from that, and  
23 then, you know, I've met with him a couple of times,  
24 and I think I contributed to his campaign, if I  
25 recall correctly.

1 Q. Well, before all his happened here, had you  
2 received any reports, anything that would cast  
3 doubts with you about his abilities and his honesty  
4 and all that stuff?

5 A. No. I mean, everything I knew about him  
6 and everything and all my engagement with him was  
7 that he was a very competent lawyer, knew what he  
8 was doing. In fact, my wife even had a case, a  
9 wrongful termination case, which Mr. Allman handled  
10 for her, and I thought he did it quite competently.  
11 At the time I was not a lawyer. And I think he  
12 would have been successful with it but for his  
13 suspension by the Board.

14 Q. Well, I mean, again, asking sort of the  
15 same questions I asked Ms. Corley, if he was under a  
16 house arrest situation and under restrictions that  
17 he would have no contact with the outside world --  
18 in other words, essentially he would be in the same  
19 position he is here now but he would be inside his  
20 home where he can at least try to help manage his  
21 family affairs and everything -- what -- is there  
22 any -- do you have any reason to believe he wouldn't  
23 -- that he would not comply with any kind of  
24 restrictions of that nature?

25 A. I have -- I absolutely believe he would

1     comply with whatever restrictions were placed on  
2     him. There's no doubt in my mind about that. In  
3     fact, I don't know why anybody would even think he's  
4     a flight risk. If he wanted to flee, he'd have done  
5     that years ago.

6     Q.           Thank you.

7                   THE COURT: General, you may  
8     cross-examine.

9                   CROSS-EXAMINATION

10    BY GENERAL DEAN:

11    Q.           Mr. Edwards, my name is Thomas Dean. I'm  
12    with the Sumner County District Attorney's office.

13    A.           Nice to meet you, sir.

14    Q.           You too. Are you aware that Mr. Allman was  
15    suspended from the practice of law originally in  
16    September of 2016?

17    A.           My wife received a letter.

18    Q.           Good. Do you know if everybody received a  
19    letter?

20    A.           As far as I know they did, but I don't have  
21    knowledge of the individual cases.

22    Q.           How about in November of '16, are you aware  
23    of -- and let me preface this because I know you  
24    represent Mr. Allman on some civil case, and I am  
25    not by any of my questions trying to get into some

1 sort of privileged conversation. So I'm not sure  
2 how to approach this but to ask my questions --

3 A. Sure.

4 Q. -- and if you feel like I'm -- the answer  
5 would require you to divulge privilege, then you  
6 just say so, because I have no idea what you've  
7 talked with him about and what you haven't, but I'm  
8 going to ask you basically the same questions I  
9 asked the other character witness and then, you  
10 know, certainly I'll respect any claim of privilege  
11 that you have.

12 A. Okay.

13 Q. So he was suspended. You're aware of that  
14 in particular because your wife got a letter. Are  
15 you aware of him after the suspension soliciting a  
16 retainer fee to represent a lady named Wanda Kelley?

17 A. I'm not aware of that.

18 Q. Are you aware of him soliciting and  
19 receiving a retainer fee from a lady named Lisa  
20 Smelser in December of '16?

21 A. I'm not aware of that.

22 Q. Are you aware of the case involving the  
23 Gregory estate in Nashville, Cathy Brown and her  
24 sister being the beneficiaries of that estate?

25 A. I have some awareness of that, and I think

1 any questions you might want to ask me about, they  
2 would be privileged in nature.

3 Q. Okay. I will move beyond that. How about  
4 the Denney estate here in Sumner County? This would  
5 have dated from 2015.

6 A. I don't know anything about that case.

7 Q. Okay. You're not aware that his bank  
8 records -- whether his bank records would show  
9 \$119,000 given to him to hold in trust which he  
10 immediately spent?

11 A. I'm not aware of that.

12 Q. How about the Rose Ponce case where he  
13 settled a case, and Ms. Ponce never got her portion  
14 of the fee? Are you aware of that?

15 A. I'm not -- excuse me. I'm not aware of  
16 anything about that case.

17 Q. How about Floyd Sutton who gave him  
18 \$12,000 to hold pending the appeal of a child  
19 support matter and Mr. Allman, according to bank  
20 records, spending that, are you familiar with that?

21 A. No, sir.

22 Q. How about money that was -- from the estate  
23 of a deceased lady named Ingram that's for the  
24 benefit of a young man named Gage Dycus, \$109,000  
25 that was given to Mr. Allman to hold in trust and

1     that he immediately spent, do you have information  
2     about that other than privileged?

3     A.           No, sir.

4     Q.           How about Mr. Mario Herrera, \$59,000 that  
5     was received to be held in trust by Mr. Allman, are  
6     you familiar with that?

7     A.           No, sir.

8     Q.           Are you familiar with Mr. Allman having  
9     continued conversations with Mr. Herrera up to and  
10    including through this year?

11    A.           No, sir.

12    Q.           Are you familiar with the bad checks that  
13    Mr. Allman has written to various and sundry clients  
14    and others?

15    A.           No, sir.

16    Q.           Are you familiar with the bad checks that  
17    he wrote to his own employees so that they would  
18    have to line up at the bank and the first person  
19    might get their money, and the last one might not?

20    A.           I am not.

21    Q.           Are you familiar with him filing  
22    bankruptcy?

23    A.           I heard at one time he did, but I don't  
24    know anything about the case.

25    Q.           Do you know if his house has gone into

1 foreclosure since this case has been pending?

2 A. I've only heard talk. I don't know  
3 anything directly myself.

4 Q. Okay.

5 GENERAL DEAN: Judge, I have no  
6 further questions.

7 THE COURT: Anything else?

8 MR. COPAS: No, sir.

9 THE COURT: Thank you, Mr. Edwards.  
10 You may be excused, sir.

11 THE WITNESS: Thank you.

12 THE COURT: Any other witnesses?

13 MR. COPAS: No, Your Honor.

14 THE COURT: General, how long is  
15 Mr. Herrera -- do you anticipate taking?

16 GENERAL DEAN: Well, I didn't time  
17 myself. I probably talked to him today over the  
18 phone just to walk through everything and we didn't  
19 really go through question and answer -- I just sort  
20 of skimmed through it and heard his side of it.  
21 That probably took 20 to 25 minutes.

22 THE COURT: Okay. Would you rather  
23 hear his testimony now or tomorrow? What is more  
24 convenient for him and you?

25 GENERAL DEAN: I'm willing to do

1     whatever is more convenient for him. I'm fine. I  
2     don't even know what time it is.

3                 THE COURT: That's an hour behind.  
4     We're running about a quarter of 5:00 right now.

5                 GENERAL DEAN: And he's on eastern  
6     time.

7                 THE COURT: Okay.

8                 GENERAL DEAN: That much we were able  
9     to establish. I'd love to do it if he's available  
10    just to get it done, Judge. But we could try him.  
11    If he's not available, do it tomorrow, but the court  
12    reporter may give me a dirty look.

13                THE COURT: She's been here all day.  
14    Let's start tomorrow at 10:00 o'clock.

15                GENERAL DEAN: That's fine. If Your  
16    Honor doesn't mind, I'll give him a quick call to  
17    make sure he can be available tomorrow morning.

18                THE COURT: That will be fine.

19                GENERAL DEAN: Did you say 10:00?

20                THE COURT: 10:00.

21                Mr. Copas, are you available tomorrow  
22    morning at 10:00?

23                MR. COPAS: Yes, Your Honor. With  
24    that in mind, before we adjourn for the day if I  
25    could have some kind of private meeting with my



1 client someplace and get as much information about  
2 Mr. Mario. I haven't had a chance to really get the  
3 whole --

4 THE COURT: Sure. That'll be fine.

5 Any problem with their meeting in the  
6 conference room back here or somewhere else?

7 COURT OFFICER: Well, I could have  
8 Mr. Allman placed back in holding and they could use  
9 one of the attorney booths back there and be able to  
10 talk.

11 THE COURT: Would that be okay?

12 MR. COPAS: Your Honor, I'd prefer if  
13 we could --

14 THE COURT: Well, the problem is the  
15 logistics of getting somebody to do this.

16 MR. COPAS: Well, I mean, to get -- if  
17 I could have a deputy -- I don't mind having a  
18 deputy --

19 THE COURT: No. No. And I'm saying  
20 that's the -- I don't know if we've got deputies to  
21 do it.

22 COURT OFFICER: My sergeant's going to  
23 be very reluctant to let me stay over just to  
24 supervise a meeting like that if it's not court  
25 being in session. I can ask him but --

1 MR. COPAS: Well, when you -- I'm  
2 sorry.

3 THE COURT: I'll tell you, let's do  
4 this. If you could be here at about 8:30 in the  
5 morning, we'll give you the conference room.

6 Can we do that?

7 COURT OFFICER: Me or Colin could be  
8 available for that for sure.

9 THE COURT: 8:30 to 10:00 o'clock.

10 MR. COPAS: Yes, Your Honor. 8:30.  
11 Very good.

12 THE COURT: 8:30. Check with Andrew  
13 here. We'll have one of these conference rooms set  
14 up for you to spend an hour and a half with  
15 Mr. Allman.

16 MR. COPAS: Thank you, Your Honor.

17 THE COURT: Thank you. And we'll  
18 resume at 10:00 o'clock in the morning with the  
19 motions here. Thank you. Everybody may be excused.

20 (Proceedings respited at 4:47 P.M.,  
21 to resume on April 3, 2020, at  
22 10:00 A.M.)  
23  
24  
25